

89  
412  
56  
15  
77

# TRANSCRIPT OF RECORD.

---

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1896.

No. 321

57.

THE MICHIGAN LAND AND LUMBER COMPANY,  
LIMITED, PLAINTIFF IN ERROR.

vs.

CHARLES A. RUST, SURVIVOR, &c.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR  
THE SIXTH CIRCUIT.

---

FILED AUGUST 28, 1896.

(16,010.)

17.80  
15  
89.00  
89.00





(16,010.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1896.

No. 331.

THE MICHIGAN LAND AND LUMBER COMPANY,  
LIMITED, PLAINTIFF IN ERROR.

*v.s.*

CHARLES A. RUST, SURVIVOR, &c.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR  
THE SIXTH CIRCUIT.

INDEX.

	Original.	Print.
Caption .....	<i>a</i>	1
Transcript from the circuit court of the United States for the eastern district of Michigan .....	<i>a</i>	1
Chronological index .....	<i>b</i>	1
Alphabetical index .....	<i>c</i>	6
Calendar entries .....	<i>d</i>	12
Declaration .....	3	13
Plea .....	4	13
Verdict .....	4	14
Order reviving suit against Charles Rust .....	5	14
Judgment .....	6	14
Bill of exceptions .....	7	15
Evidence for plaintiff .....	8	15
Exhibit 1—Stipulation as to evidence .....	8	15
2—Extract from report of Commissioner of General Land Office for year 1850, p. 16. .	9	16
3—Letter from Commissioner of General Land Office to governor of Michigan, Novem- ber 21, 1850 .....	9	16

	Original.	Print.
Exhibit 3c—Letter from Commissioner of General Land Office to surveyor general of Michigan, November 21, 1850.....	10	17
4—Letter from surveyor general of Michigan to governor of Michigan, Dec. 6, 1850..	13	19
5—Letter from governor of Michigan to surveyor general of Michigan, December 20, 1850.....	14	19
6—Letter from surveyor general of Michigan to governor of Michigan, Jan. 3, 1851..	14	20
7—Extract from message of governor of Michigan to the legislature of 1851.....	16	21
8—Letter from surveyor general of Michigan to Commissioner of General Land Office, December 4, 1850.....	17	22
9—Letter from Commissioner of General Land Office to surveyor general of Michigan, December 12, 1850.....	17	22
10—Letter from surveyor general of Michigan to Commissioner of General Land Office, June 18, 1851.....	18	23
10a—Map referred to in foregoing letter.....	20a	24
11—Letter from surveyor general of Michigan to Commissioner of General Land Office, March 31, 1852.....	20	24
12—Letter from Commissioner of General Land Office to surveyor general of Michigan, April 13, 1852.....	21	25
13 and 14—Not set out.....	22	26
15—Letter from Commissioner of General Land Office to governor of Michigan, January 13, 1854.....	23	26
16—Letter from Commissioner of General Land Office to governor of Michigan, March 13, 1854.....	24	26
17—Extracts from inventories of papers, &c., turned over by surveyor general to State land office of Michigan.....	25	27
18—Letter from deputy commissioner of State land office of Michigan to Commissioner of General Land Office, April 17, 1855.....	26	28
19—Letter from Commissioner of General Land Office to deputy commissioner of State land office of Michigan, April 25, 1855..	26	28
20—Letter from Commissioner of General Land Office to deputy commissioner of State land office of Michigan, Dec. 13, 1855..	27	28
21—Letter from Commissioner of General Land Office to governor of Michigan, December 13, 1855.....	28	29
22—Letter from Commissioner of General Land Office to governor of Michigan, May 21, 1860.....	29	30

Exhibit 22a—Act of Congress to extend the provisions of "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits, &c., approved March 12, 1860.....	30	31
23—Letter from Commissioner of General Land Office to commissioner State land office of Michigan, December 22, 1858.....	31	31
24—Letter from Commissioner of General Land Office to State commissioner of lands in Michigan, December 27, 1871 .....	35	34
25—Letter from Commissioner of General Land Office to register and receiver at Detroit, Michigan, September 6, 1877.....	36	34
26—List No. 1, made by surveyor general, of swamp lands in the Grand River land district.....	38	36
27—List of swamp and overflowed lands selected as enuring to the State of Michigan under act of Congress of September 28, 1850, in district subject to sale at Ionia, Michigan.....	40	37
28—Not set out .....	43	40
30—Field-notes of United States survey of sections 20, 21, 22, 28, and 35 of township 18 north, range 3 west, Michigan .....	44	40
31—Map of township 18 north, of range No. 3 west, of the principal meridian of Michigan.....	54a	47
Testimony of Richard Kerns .....	54	47
Exhibit 32—Map of the Ionia land district, Michigan..	55a	47
Testimony of Oscar Palmer.....	55	48
Exhibit 33—Patent from State of Michigan to Edward W. Sparrow, October 14, 1887.....	63	53
34—Patent from State of Michigan to Edward W. Sparrow, October 14, 1887.....	65	54
35—Deed from Edward W. Sparrow to Michigan Land and Lumber Co. (Limited) October 31, 1887.....	66	55
Testimony of George W. Doxie .....	68	57
Exhibit 37—Patent from the United States to Wm. A. Rust, May 10, 1870.....	71	59
38—Patent from the United States to Wm. A. Rust, May 10, 1870. . . . .	73	60
39—Patent from the United States to Wm. A. Rust, May 10, 1870.....	74	60
40—Patent from the United States to Wm. A. Rust, May 10, 1870.....	75	61
41 to 50—Deeds (not set out) .....	77	62
51—Patent from the United States to Addison P. Brewer, January 10, 1867 .....	78	63
Exhibits 52, 53, 55, and 56—Deeds (not set out) . . .	79	64
Plaintiff rests.....	79	64

	Original.	Print.
Evidence for defendants .....	79	64
Exhibit 57—Letter from governor of Michigan to the President of the United States, Feb- ruary 3, 1842.....	80	64
Resolution by legislature of Michigan re- questing survey of certain lands.....	80	65
58—Letter from Commissioner of General Land Office to President of the United States, February 17, 1842, and endorse- ment thereon.....	81	65
59—Letter from Commissioner of General Land Office to governor of Michigan, February 21, 1842.....	83	67
Letter from Commissioner of General Land Office to surveyor general at Cin- cinnati, Ohio, February 21, 1842.....	84	67
60—Letter from surveyor general at Cincin- nati, Ohio, to Commissioner of General Land Office, March 4, 1842.....	85	68
61—Letter from Commissioner of General Land Office to governor of Michigan, April 2, 1842.....	94	74
Letter from Commissioner of General Land Office to surveyor general at Cin- cinnati, Ohio, April 2, 1842.....	95	74
62—Letter from Commissioner of General Land Office to Wm. A. Burt, deputy surveyor at Mount Vernon, Michigan, April 11, 1842.....	96	75
63—Letter from surveyor general at Cincin- nati to Commissioner of General Land Office, August 1, 1842.....	99	77
64—Letter from Commissioner of General Land Office to Hon. A. S. Porter, Octo- ber 4, 1842.....	100	78
65—Letter from surveyor general at Cincin- nati to Commissioner of General Land Office, April 27, 1843.....	100	78
66—Extract from Report of Commissioner of General Land Office for 1843.....	102	79
67—Letter from Wm. Woodbridge to Com- missioner of General Land Office, Sep- tember 16, 1844.....	103	80
68—Letter from Commissioner of General Land Office to Wm. Woodbridge, Sep- tember 30, 1844.....	106	82
69—Letter from Commissioner of General Land Office to register and receiver at Genesee, Michigan, October 1, 1844...	107	83
70—Extracts from Reports of Commissioner of General Land Office for years 1844 to 1848, inclusive.....	108	83

	Original.	Print.
Exhibit 71—Letter from Commissioner of General Land Office to Hon. A. Felch, February 17, 1849 . . . . .	113	87
72—Letter from Commissioner of General Land Office to Hon. S. Breese, February 17, 1849 . . . . .	113	87
73—Letter from surveyor general at Detroit to Commissioner of General Land Office, July 10, 1849 . . . . .	114	88
74—Extracts from Report of Commissioner of General Land Office for 1849 . . . . .	116	89
75—Statement of resurveys in the State of Michigan . . . . .	124	96
76—Extracts from Report of Commissioner of General Land Office for 1850 . . . . .	130	100
77—Letter from surveyor general at Detroit to Commissioner of General Land Office, March 5, 1851 . . . . .	134	103
78—Extracts from Report of Commissioner of General Land Office for 1851 . . . . .	137	105
79—Letter from surveyor general at Detroit to Commissioner of General Land Office, February 10, 1852 . . . . .	140	107
Letter of Deputy Surveyor Wadsworth to surveyor general, December 24, 1851 . . . . .	144	110
80—Letter from Commissioner of General Land Office to surveyor general at Detroit, March 8, 1852 . . . . .	147	112
81—Extracts from Reports of Commissioner of General Land Office for 1852 to 1858, inclusive . . . . .	149	113
82—Letter from surveyor general at Detroit to Commissioner of General Land Office, June 11, 1847 . . . . .	168	126
83—Letter from Commissioner of General Land Office to surveyor general at Detroit, June 7, 1853 . . . . .	169	126
84—Letter from Commissioner of General Land Office to register at Detroit, July 29, 1853 . . . . .	170	127
85—Letter from Commissioner of General Land Office to register at Detroit, July 30, 1853 . . . . .	171	128
86—Letter from Commissioner of General Land Office to register at Ionia, September 5, 1863 . . . . .	172	128
87—Letter from Commissioner of General Land Office to surveyor general at Detroit, September 19, 1854 . . . . .	173	129
88—Letter from surveyor general at Detroit to Commissioner of General Land Office, September 27, 1854 . . . . .	174	129
Map of township 2 north, range 2 west . . . . .	176a	131

	Original.	Print.
Exhibit 89—Letter from Commissioner of General Land Office to surveyor general at Detroit, October 6, 1854.....	176	131
90—Letter from surveyor general at Detroit to Commissioner of General Land Office, September 18, 1852.....	177	132
91—Letter from Commissioner of General Land Office to surveyor general at Detroit, October 4, 1852.....	178	133
92—Letter from surveyor general at Detroit to Commissioner of General Land Office, June 24, 1853.....	179	133
93—Letter from surveyor general at Detroit to Commissioner of General Land Office, October 29, 1853.....	180	134
94—Letter from Commissioner of General Land Office to surveyor general at Detroit, November 7, 1853.....	181	134
95—Letter from surveyor general at Detroit to Commissioner of General Land Office, January 31, 1855.....	181	135
96—Letter from Commissioner of General Land Office to surveyor general at Detroit, February 12, 1855.....	182	135
97—Extracts from Report of Commissioner of General Land Office for 1852.....	183	136
98—Letter from Commissioner of General Land Office to governor of Michigan, January 20, 1854.....	184	136
99—Letter from governor of Michigan to Commissioner of General Land Office, January 30, 1854.....	185	137
100—Letter from Commissioner of General Land Office to governor of Michigan, February 24, 1854.....	185	137
101—List No. 4 of swamp and overflowed lands selected as enuring to the State of Michigan under act of Congress approved September 28, 1850, in the district of lands subject to sale at Ionia, Michigan.....	186	138
102—Letter from Commissioner of General Land Office to governor of Michigan, March 31, 1854.....	188	139
103—List No. 1 of swamp and overflowed lands selected as enuring to the State of Michigan under the act of Congress approved September 28, 1850, in the district of lands subject to sale at Genesee, Michigan.....	190	140
104—Letter from Commissioner of General Land Office to governor of Michigan, April 25, 1854.....	192	142



Exhibit 105—List No. 2 of swamp and overflowed lands selected as enuring to the State of Michigan under the act of Congress approved September 28, 1850, in the district of lands subject to sale at Genesee, Michigan.....	194	143
106—Letter from Commissioner of General Land Office to governor of Michigan, May 19, 1854. ....	197	145
107—List No. 3 of swamp and overflowed lands selected as enuring to the State of Michigan under the act of Congress approved September 28, 1850, in the district of lands subject to sale at Genesee, Michigan.....	198	146
108—Letter from Commissioner of General Land Office to governor of Michigan, July 1, 1854.....	200	148
109—Letter from governor of Michigan to Commissioner of General Land Office, July —, 1854.....	201	148
110—List of swamp lands in Grand River land district No. 1.....	201	149
111—List No. 1 of swamp and overflowed lands selected as enuring to the State of Michigan under the act of Congress approved September 28, 1850, in the district of lands subject to sale at Ionia, Michigan.....	207	153
112—Letter from governor of Michigan to Commissioner of General Land Office, January 31, 1854.....	211	157
113—Patent from the United States to the State of Michigan, March 17, 1857.....	212	157
114—Field-notes of survey of township 18 N., range 3 W., Michigan.....	214	159
115—Letter from surveyor general at Detroit to Commissioner of General Land Office, April 21, 1852.....	220	169
116—Letter from register at Ionia to Commissioner of General Land Office, September 23, 1854.....	230	169
117—Letter from Commissioner of General Land Office to register at Ionia, October 3, 1854.....	230	170
118—Extract from report of commissioner of State land office of Michigan for year ending November 30, 1856.....	231	170
119—Letter from Commissioner of General Land Office to governor of Michigan, February 24, 1855.....	232	171
120—Extract from report of commissioner of State land office of Michigan for year ending November 30, 1855.....	233	172

	Original.	Print.
Exhibit 121—Letter from Commissioner of General Land Office to register at Detroit, June 18, 1864. ....	235	173
122—Extract from report of Commissioner of General Land Office for 1864. ....	237	174
123—Map of township No. 18 N. of range No. 3 W. of the principal meridian of Michigan. ....	237 <i>a</i>	174
124—Supplemental list No. 3 of swamp or overflowed lands prepared under the act of Congress approved September 28, 1850, situated in Grand River land district, in the State of Michigan, in townships resurveyed and platted to May 1, 1858. ....	238	175
125—Letter from surveyor general at St. Paul to Commissioner of General Land Office, May 12, 1858. ....	241	177
126—Letter from Commissioner of General Land Office to surveyor general at St. Paul, May 20, 1858. ....	241	178
127—List No. 10 of swamp and overflowed lands selected as enuring to the State of Michigan under the act of Congress approved September 28, 1850, in the district of lands subject to sale at Ionia, Michigan. ....	242	178
128—Letter from Commissioner of General Land Office to governor of Michigan, May 26, 1866. ....	244	180
129—Letter from governor of Michigan to Commissioner of General Land Office, May 31, 1866. ....	245	180
130—Patent from the United States to the State of Michigan, June 21, 1866. ....	246	181
131—Letter from Commissioner of General Land Office to governor of Michigan, March 25, 1873. ....	248	182
132—Letter from commissioner of State land office to Commissioner of General Land Office, April 25, 1875. ....	249	183
133—Letter from acting Commissioner of General Land Office to governor of Michigan, November 10, 1875. ....	250	183
134—List No. 22 of swamp and overflowed lands selected as enuring to the State of Michigan under the act of Congress approved September 28, 1850, in the district of lands subject to sale at Traverse City. ....	251	184
135—Patent from the United States to the State of Michigan, August 12, 1876. ....	255	187
136—Letter from commissioner of State land office of Michigan to Commissioner of General Land Office, April 30, 1874. ....	258	189

	Original.	Print.
Exhibit 136—Supplemental list No. 3 of swamp and overflowed lands in Grand River dis- trict, &c . . . . .	258	190
137—Letter from Commissioner of General Land Office to commissioner of State land office of Michigan, June 15, 1874 . . . . .	263	193
138—Letter from commissioner of State land office of Michigan to Commissioner of General Land Office, August 12, 1875 . . . . .	267	196
List enclosed in foregoing letter . . . . .	268	197
139—Letter from acting Commissioner of Gen- eral Land Office to commissioner of State land office of Michigan, Septem- ber 13, 1875 . . . . .	269	197
140—List No. 20 of swamp and overflowed lands selected as enuring to the State of Michigan under act of Congress of September 28, 1850, in the district of lands subject to sale at Ionia, Michigan . . . . .	270	198
141—Patent from the United States to the State of Michigan, July 31, 1876 . . . . .	271	199
142—Certificate of the commissioner of the State land office of Michigan, June 16, 1892 . . . . .	273	200
143—Letter from register and receiver at De- troit to commissioner of State land office, September 10, 1877 . . . . .	274	201
Letter of Commissioner of General Land Office to register and receiver at Detroit, September 6, 1877 . . . . .	275	201
144—Letter from Commissioner of General Land Office to governor of Michigan, June 26, 1880 . . . . .	276	202
145—Letter from governor of Michigan to Sec- retary of the Interior, July 27, 1881 . . . . .	277	203
146—Letter from Commissioner of General Land Office to governor of Michigan, August 27, 1881 . . . . .	278	204
147—Letter from governor of Michigan to Commissioner of General Land Office, March 20, 1882 . . . . .	280	205
Letter from commissioner of State land office to governor of Michigan, March 18, 1882 . . . . .	280	205
148—Letter from Commissioner of General Land Office to governor of Michigan, March 29, 1882 . . . . .	281	206
149—Letter from Commissioner of General Land Office to register and receiver at Detroit, March 25, 1887 . . . . .	283	207
150—Letter from Commissioner of General Land Office to register and receiver at East Saginaw, November, 1887 . . . . .	285	208

	Original.	Print.
Exhibit 151—Letter from Commissioner of General Land Office to register and receiver at Ionia, Michigan, January 30, 1868 . . . .	286	209
151 A—Letter from Commissioner of General Land Office to register and receiver at Ionia, Michigan, July 30, 1869. . . . .	289	211
152—Letter from chief clerk of surveyor general's office to commissioner of State land office of Michigan, May 13, 1858. .	291	213
153—Supplemental list E of swamp and overflowed lands, prepared under act of Congress of September 28, 1850, situate in the Cheboygan land district, &c. . . .	292	213
154—List No. 11 of swamp and overflowed lands selected as enuring to the State of Michigan under act of September 28, 1850, in the district of lands subject to sale at Ionia, Michigan. . . . .	294	215
155—Letter from governor of Michigan to Commissioner of General Land Office, June 20, 1866. . . . .	298	218
156—Patent from the United States to the State of Michigan, December 26, 1866. .	298	218
157—Letter from commissioner of State land office to governor of Michigan, April 5, 1859. . . . .	302	221
158—Report of the Committee on Public Lands relative to the State swamp lands . . . .	303	222
Statement B, showing amount of swamp land sold, licensed, and unsold in each county to January 1, 1861. . . . .	307	224
159—Letter from commissioner of State land office of Michigan to Commissioner of General Land Office, July 10, 1861 . . . .	308	225
160—Extracts from reports of commissioner of State land office of Michigan for years from 1860 to 1878, inclusive. . . . .	309	226
161—List No. 1, Grand River land district. .	316	231
162—List No. 1 of swamp and overflowed lands enuring to the State of Michigan under the act of September 28, 1850, in the district of lands subject to sale at Ionia, Michigan. . . . .	320	234
Testimony of Edward W. Sparrow. . . . .	325	238
Wm. L. Webber. . . . .	327	239
Charles A. Rust. . . . .	328	240
Exhibit 163—Deed from auditor general of State of Michigan to C. A. Rust, July 30, 1892. .	330	241
Testimony of William L. Webber (recalled). . . . .	332	242
Charles A. Rust (recalled). . . . .	332	243
Defendants rest. . . . .	332	243
Motions to strike out and rulings thereon. . . . .	332	243

	Original.	Print.
Evidence for plaintiff in rebuttal.....	334	243
Exhibit 165—Extracts from reports of Commissioners of General Land Office for 1855 to 1891, inclusive, showing amount of lands selected, approved, and patented to the State of Michigan under act of Septem- ber 28, 1850.....	334	244
166—Extracts from reports of Commissioners of General Land Office for 1877, 1878, and 1882.....	335	245
167—Extracts from reports of commissioner of State land office for years 1853, 1854, 1871, 1876, 1882, and 1886 .. . . .	337	246
168—Extracts from messages of Governors Jerome and Alger to the legislature of Michigan.....	343	250
169—Letter from Commissioner of General Land Office to surveyor general at De- troit, September 2, 1856.....	345	251
170—Letter from surveyor general at Detroit to Commissioner of General Land Office, December 9, 1856.....	346	252
171—Letter from Commissioner of General Land Office to surveyor general at De- troit, January 2, 1857.....	347	253
172—Letter from surveyor general at Detroit to Commissioner of General Land Office, January 17, 1857.....	349	254
173—Letter from Commissioner of General Land Office to surveyor general at De- troit, February 3, 1857.....	350	255
174—Letter from surveyor general at Detroit to Commissioner of General Land Office, February 11, 1857.....	351	255
175—Letter from Commissioner of General Land Office to surveyor general at De- troit, February 24, 1857.....	355	258
175 A—Record in case of <i>The United States vs.</i> Henry Nicholson <i>et al.</i> , No. 2202, from circuit court of the United States for the eastern district of Michigan.....	357	259
Calendar entries.....	357	259
Amended <i>narr.</i> .....	358	260
Plea.....	362	263
Verdict.....	363	263
175 B—Record in case of <i>The United States vs.</i> Henry Brevoort, Jr., <i>et al.</i> , No. 2198, from circuit court of the United States for the eastern district of Michigan....	364	264
Calendar entries.....	364	264
Amended <i>narr.</i> .....	365	265
Plea of Henry Brevoort, Jr.....	370	268
Plea of James H. Mullett <i>et al.</i> .....	372	269
Verdict .. . . .	374	270

	Original.	Print.
Exhibit 176—Letter from J. M. Howard to Secretary of Interior, December 13, 1850.....	375	271
177—Letter from United States district attorney at Detroit to James L. Conger, February 10, 1851.....	378	272
178—Letter from United States district attorney at Detroit to Commissioner of General Land Office, February 11, 1851....	378	273
179—Letter from surveyor general to Commissioner of General Land Office, February 28, 1851 .....	380	274
Letter from Henry Brevoort, Jr., to surveyor general, February 11, 1851.....	380	274
Letter from Henry Brevoort, Jr., to surveyor general, February 14, 1851.....	383	275
180—Letter from Commissioner of General Land Office to surveyor general at Detroit, January 15, 1853.....	384	276
181—Letter from surveyor general at Detroit to Commissioner of General Land Office, February 14, 1853 .....	385	277
182—Letter from chief clerk of surveyor general's office to Commissioner of General Land Office, February 24, 1853.....	387	278
183—Letter from Commissioner of General Land Office to deputy commissioner at Lansing, September 23, 1859 .....	388	279
184—Letter from commissioner of State land office to governor of Michigan, February 20, 1862 .....	389	279
185—Letter from Commissioner of General Land Office to commissioner of State land office of Michigan, Jan. 5, 1873...	392	282
186—Letter from acting Commissioner of General Land Office to governor of Michigan, October 24, 1873. ....	393	282
187—Letter from Commissioner of General Land Office to commissioner of State land office of Michigan, Feb. 20, 1874...	393	283
188—Letter from Commissioner of General Land Office to governor of Michigan, November 17, 1875.....	394	283
189—Letter from acting Commissioner of General Land Office to commissioner of State land office of Michigan, April 10, 1876 ..	394	283
190—Letter from acting Commissioner of General Land Office to governor of Michigan, April 13, 1876 .....	395	284
191—Letter of Wm. L. Webber to commissioner of State land office of Michigan, December 26, 1876 .....	396	284
192—Letter from commissioner of State land office to Wm. L. Webber, Dec. 27, 1876.	396	285



# INDEX.

XIII

Original. Print.

Exhibit 193—Letter from Commissioner of General Land Office to governor of Michigan, January 22, 1889.....	337	285
194—Letter from Commissioner of General Land Office to deputy State land com- missioner at Lansing, August 1, 1887..	398	286
195—Letter from Commissioner of General Land Office to governor of Michigan, September 28, 1887.....	398	286
Plaintiff rests.....	399	286
Plaintiff's requests for instructions.....	399	286
Defendant's request for instructions.....	401	288
Instructions.....	402	288
Exceptions to charge and refusal to charge.....	403	289
Judge's certificate to bill of exceptions.....	404	290
Assignment of errors.....	405	290
Petition for writ of error.....	455	323
Allowance of writ of error.....	455	323
Writ of error.....	456	324
Citation and acceptance of service of same.....	457	324
Bond.....	458	325
Clerk's certificate.....	459	326
Stipulation for continuance.....	460	327
Order for continuance.....	461	327
Stipulation for continuance.....	461	327
Minutes of argument.....	462	327
Minutes of submission.....	463	328
Opinion.....	465	329
Judgment.....	483	345
Notice of intention to sue out writ of error.....	484	346
Assignment of errors.....	485	346
Petition for writ of error and allowance of same.....	532	371
Bond.....	534	372
Clerk's certificate.....	537	374
Proof of service of citation.....	538	374
Citation.....	540	375
Writ of error.....	542	376



United States Circuit Court of Appeals for the Sixth Circuit,  
October Term, 1893.

MICHIGAN LAND AND LUMBER COMPANY, LIMITED, Plain-  
tiff in Error,  
vs.  
CHARLES A. RUST, Survivor, etc., Defendant in Error. } No. 178.

In error to the circuit court of the United States for the eastern  
district of Michigan.

*Record.*

Filed January 20, 1894. Walter S. Harsha, clerk.

J. W. Champlin, Frank E. Robson, attorneys for plaintiff in error.  
Hanchett, Stark & Hanchett, attorneys for defendant in error.

No. 178.

# CHRONOLOGY.

## 1850.

Com. Butterfield to gov.....	Nov. 21, Ex.	3, p.	9
" " to sur. gen.....	" 21, "	3 A,	10
Sur. Gen. to Butterfield.....	Dec. 4, "	8, "	17
" " to Gov. Barry.....	" 6, "	4, "	13
Com. Butterfield to sur. gen.....	" 12, "	9, "	17
Howard, J. M., to Sec. of Interior.....	" 13, "	176, "	375
Gov. Barry to sur. gen.....	" 20, "	5, "	14
Report of Com. G. L. O. for 1850, Exec. Doc. No. 2 (Senate).	" "	76, "	130
Report of Com. G. L. O. for 1850.....	" "	2, "	9

## 1851.

Sur. Gen. Noble to Gov. Barry.....	Jan. 3, Ex.	6, p.	14
Bates to Cooper, M. C. elect ..	Feb. 10, "	177, "	378
Bevoort to sur. gen.....	" 11, "	179 A, "	380
Bates to Putterfield.....	" 11, "	178, "	378
Bevoort to sur. gen.....	" 14, "	179 B, "	383
Moses Kelley's report.....	" 14, "	75, "	124
Wadsworth, dep. sur., to sur. gen.....	" 24, "	79, "	144
Sur. Gen. Noble to Butterfield.....	" 28, "	179, "	380
" " " ".....	Mar. 5, "	77, "	134
" " " ".....	June 18, "	10, "	18
Com. report for 1851.....	" "	78, "	137

## 1852.

Sur. Gen. Noble to Com. Butterfield.....	Feb. 10, Ex.	79, p.	140
Com. Butterfield to Sur. Gen. Noble.....	Mar. 8, "	80, "	147
Sur. gen. list Grand River land district (rec'd at land office Apr. 12, 1852).....	May 29, Ex.	26, p.	38
Sur. Gen. Noble to Butterfield.....	" 31, "	11, "	20
Butterfield to Sur. Gen. Noble.....	Apr. 13, "	12, "	21
Noble to Butterfield.....	" 21, "	115, "	229
" " " ".....	Sept. 18, "	90, "	177
Com. Wilson to Sur. Gen. Noble.....	Oct. 4, "	91, "	178
Rep. Com. Gen. Land Office, 1852 to 1858.....	" "	81, "	149
Com. State land office.....	" "	97, "	183

1853.

Com. Wilson to Sur. Gen. Noble.....	Jan.	15,	Ex.	180,	p.	384
Sur. Gen. Noble to Com. Wilson.....	Feb.	14,		181,	"	385
Frost, Geo. S., to Com. Wilson.....	"	24,	"	182,	"	387
Com. Wilson to sur. gen.....	June	7,		83,	"	169
Sur. Gen. Chapman to Com. Wilson.....	"	24,	"	92,	"	179
Com. Wilson to reg. and rec. (Detroit).....	July	29,	"	84,	"	170
Com. Wilson to reg. and rec. (Detroit).....	"	30,	"	85,	"	171
Approval of Genesee list No. 3.....	Oct.	25,	"	107,	"	198
" " " " " 2.....	"	25,	"	105,	"	196
" " " " " 1.....	"	25,	"	103,	"	190
" " " " " 1.....	"	27,	"	111,	"	210
Sur. Gen. Chapman to Com. Wilson.....	"	29,	"	93,	"	180
Com. Wilson to Sur. Gen. Chapman.....	Nov.	7,	"	94,	"	181
Approval of Ionia list No. 4.....	Dec.	31,	"	101,	"	187
Rep. Com. Gen. Land Office.....	"	"	"	81,	"	153
" " State land office.....	"	"	"	167,	"	337

1854.

Com. Wilson to Gov. Parsons.....	Jan.	13,	Ex.	15,	p.	23
d Gov. Parsons to Com. Wilson.....	Jan.	13,	Ex.	99,	p.	185
Com. Wilson to Gov. Parsons.....	"	20,	"	98,	"	184
Gov. Parsons to Com. Wilson.....	"	31,	"	112,	"	211
Com. Wilson to Gov. Parsons.....	Feb.	24,	"	100,	"	185
" " " " ".....	Mar.	13,	"	16,	"	24
" " " " ".....	"	31,	"	102,	"	188
" " " " ".....	Apr.	25,	"	104,	"	192
" " " " ".....	May	19,	"	106,	"	197
" " " " ".....	July	1,	"	108,	"	200
Gov. Parsons to Com. Wilson.....	"	"	"	109,	"	201
Com. Wilson to Sur. Gen. Chapman.....	Sept.	19,	"	87,	"	173
Reg. Bell (Ionia) to Com. Wilson.....	"	23,	"	116,	"	230
Sur. Gen. Chapman to Com. Wilson.....	"	27,	"	88,	"	174
Com. Wilson to reg. (Ionia).....	Oct.	3,	"	117,	"	230
" " to Sur. Gen. Chapman.....	"	6,	"	89,	"	176
Rep. com. State land office.....	"	"	"	167,	"	337
" " " Gen. L. O.....	"	"	"	81,	"	157

1855.

Sur. Gen. Chapman to Com. Wilson.....	Jan.	31,	Ex.	95,	p.	181
Com. Wilson to Sur. Gen. Chapman.....	Feb.	12,	"	96,	"	182
Com. Wilson to Gov. Bingham.....	"	24,	"	119,	"	232
Goodrich to Wilson.....	Apr.	17,	"	18,	"	26
Com. Wilson to Goodrich, dep. C. S. L. O.....	"	25,	"	19,	"	26
Com. Hendricks to Goodrich, dep. C. S. L. O.....	Dec.	13,	"	20,	"	27
Com. Hendricks to Gov. Bingham.....	"	13,	"	21,	"	28
c Rep. com. State land office.....			Ex.	120,	p.	233
" " " Gen. Land Office.....	"	"	"	165,	"	334
Rep. Com. Gen. Land Office.....	"	"	"	81,	"	159

1856.

Com. Wilson to Sur. Gen. Chapman.....	Sept.	2,	Ex.	169,	p.	345
Sur. Gen. Chapman to Com. Hendricks.....	Dec.	9,	"	170,	"	346
Rep. Com. Gen. Land Office.....	"	"	"	165,	"	334
" " State " ".....	"	"	"	118,	"	231
" " Gen. " ".....	"	"	"	81,	"	162

1857.

Com. Hendricks to Sur. Gen. Chapman.....	Jan.	2,	Ex.	171,	p.	347
Com. Hendricks to Sur. Gen. Chapman.....	Feb.	3,	"	173,	"	350
Chapman to Hendricks.....	"	11,	"	174,	"	351
Hendricks to Chapman.....	"	24,	"	175,	"	355
Rep. Com. Gen. Land Office.....	"	"	"	165,	"	334
" " " " ".....	"	"	"	81,	"	163

## 1858.

Emerson to Hendricks .....	May	12, Ex.	125, p.	241
Wood, chf. clerk sur. gen., to Treadwell, C. S. L. O. ....	"	13, "	152, "	291
Orig. sup. list E. ....	"	13, "	153, "	292
Hendericks to Emerson. ....	"	20, "	126, "	241
Com. Hendricks to Treadwell, C. S. L. O. ....	Dec.	22, "	23, "	31
Rep. Com. Gen. Land Office. ....			81, "	168

## 1859.

Com. S. L. O. Sanborn to Gov. Wisner. ....	Apr.	5, Ex.	157, p.	302
Com. Wilson to C. S. L. O. Sanborn. ....	Sept.	23, "	183, "	388

f

## 1860.

Com. Wilson to gov. of Michigan. ....	May	21, Ex.	22, p.	29
Report of Com. Sanborn, 1860. ....			160, "	309
Act of Congress, Mar. 12. ....			22 A, "	30

## 1861.

C. S. L. O. Lacy to Com. Edmunds .....	July	10, Ex.	159, p.	308
Statement "B" showing swamp lands by counties, Jan. 1. ....				307
Report of com. on pub. land, House Doc. No. 9, to legis- lature .....			158, "	303
Report of com. State land office. ....			160, "	312

## 1862.

Com. S. L. O. Lacy to Gov. Blair. ....	Feb.	20, Ex.	184, p.	389
Rep. com. State land office. ....			160, "	312

## 1863.

Com. Edmunds to reg. Ionia. ....	Sept.	5, Ex.	86, p.	172
----------------------------------	-------	--------	--------	-----

## 1864.

Com. Edmunds to Reg. Kaichen, Detroit. ....	June	18, Ex.	121, p.	235
Report Com. Gen. Land Office. ....			122, "	237

## 1865.

Report com. State land office. ....			Ex. 160, p.	313
-------------------------------------	--	--	-------------	-----

## 1866.

Approved list Ionia, No. 10 (approved May 18, p. 244). ..	May	5, Ex.	127, p.	242
Transmitted to gov. ....	"	26, "	128, "	244
Gov. Crapo to Com. G. L. O. ....	"	31, "	129, "	245
Approved list Ionia, No. 11. ....	June	9, "	154, "	294
Gov. Crapo to Com. G. L. O. Edmund. ....	"	20, "	155, "	298
Crapo acknowledges receipt and requests patents. ..	June	20, Ex.	155, p.	298
Patent. ....	Dec.	26, "	156, "	298
Report of com. of State land office. ....			160, "	313

## 1867 (none).

## 1868.

Wilson to reg. and rec., Ionia. ....	Jan.	30, Ex.	151, p.	286
Report of com. of State land office. ....			160, "	314

## 1869.

Wilson to reg. and rec., Ionia. ....	July	30, Ex.	151 A, p.	289
Report of com. of State land office. ....			160, "	314
Public sale of land in question by U. S. Nov. 12, 1869. ..				59

## 1870.

Report com. State land office. ....			Ex. 160, p.	314
-------------------------------------	--	--	-------------	-----

## 1871.

Com. Drummond to C. A. Edmunds, C. S. L. O. ....	Dec.	27, Ex.	24, p.	35
Report com. State land office. ....			167, "	340

1872.

Rep. com. State land office..... Ex. 160, p. 315

1873.

Com. Drummond to com. S. L. O. Clapp..... Jan. 5, Ex. 185, p. 392  
 Com. Drummond to gov. of Michigan..... Mar. 25, " 131, " 248  
 Act. Com. Curtis to gov. of Michigan..... Oct. 24, " 186, " 393

1874.

Com. Drummond to C. S. L. O. Clapp..... Feb. 20, Ex. 187, p. 393  
*h* C. S. L. O. Clapp to Com. Drummond (enclosing supplemental list No. 3, Grand River land district, and asking for approval and patents)..... Apr. 30, Ex. 136, p. 258  
 Com. Burdette to C. S. L. O. Clapp (enclosing lists and replying to letter of April 30, 1874)..... June 15, " 137, " 263  
 Report com. State land office..... " 160, " 315

1875.

Com. Clapp to Com. Burdette..... Apr. 15, Ex. 132, p. 249  
 Pat. U. S. to Michigan..... July 31, " 141, " 271  
 Com. Clapp to Com. Burdette..... Aug. 12, " 138, " 267  
 Act. Com. Curtis to Clapp..... Sept. 13, " 139, " 269  
 Approved list Ionia No. 20..... " 13, " 140, " 270  
 Com. Burdette to gov. of Michigan (enclosing approved list No. 22)..... Nov. 17, " 188, " 394

1876.

Act. Com. Baxter, N. J. to Clapp (enclosing list No. 24)..... Apr. 10, " 189, p. 394  
 Act. Com. Baxter, N. J. to gov. of Michigan (enclosing approved list No. 24)..... " 13, " 190, " 395  
 Webber to C. S. L. O. .... Dec. 26, " 191, " 396  
 Clapp to Webber (no adjustment)..... " 27, " 192, " 396  
 Rep. com. State land office..... " " 167, " 342

1877.

Com. Williamson to reg. and rec., Ionia..... Sept. 6, Ex. 25, p. 36  
 Reg. and rec., Detroit to Partridge, C. S. L. O. .... " 10, " 143, " 274  
 Rep. of Sec. of Int. .... " " 166, " 335

*i*

1878.

Rep. of Sec. of Interior..... Ex. 166, p. 335

1879 (none).

1880.

Com. Williamson to gov. of Michigan..... June 26, Ex. 144, p. 276

1881.

Gov. Jerome to Sec. of Int. .... July 27, Ex. 145, p. 277  
 Com. McFarland to gov. of Mich. .... Aug. 27, " 146, " 278

1882.

Message of gov. Jerome ..... Feb. 23, Ex. 168, p. 343  
 Neasmith to gov. of Michigan ..... Mar. 18, " 147, p. 280  
 Gov. Jerome to C. G. L. O. .... " 20, " 147, " 280  
 McFarland to Gov. Jerome..... " 29, " 148, " 281  
 Report of Sec. of Interior ..... " " 166, " 336  
 Report of com. State land office ..... " " 167, " 341

1883 (none).

1884 (none).

1885 (none).



1886.

Rep. com. State land office ..... Ex. 167, p. 342

1887.

Message of Gov. Alger. ....	Jan.	6,	Ex.	168,	p.	344
Com. Sparks to reg. and rec. (Detroit).....	Mar.	25,	"	149,	"	283
Act. Com. Stockslager to Dep. C. S. L. O. Sleeper .....	Aug.	1,	"	194,	"	398
Com. Sparks to gov. of Mich. (list 34) .....	Sept.	27,	"	195,	"	398
Sparks to reg. and rec. (Detroit).....	Nov.	8,	"	150,	"	285

1888 (none).

1889.

Com. Stockslager to gov. .... Jan. 22, Ex. 193, p. 397

## ALPHABETICAL INDEX.

Abbreviations.—C. G. L. O., Commissioner of General Land Office; C. S. L. O., commissioner of State land office; S. G., surveyor general; D.S., deputy surveyor; inc., inclosure.

	Page.
Assignments of errors	405
Bill of exceptions commences	7
Bond on writ of error	458
Charge of court	402
Calendar entries	2
Citation to defendant on issuing writ of error	457
Certificate of C. S. L. O. as to lands in certain lists, etc., June 16, 1892, Exhibit 142	273
Concessions ( <i>see stipulations</i> ).	
Declaration of plaintiff	3
Deeds ( <i>see patents</i> ).	

## Exhibits:

No.	Page.	No.	Page.	No.	Page.	No.	Page.
1	8	40	75	82	168	122	237
2	9	41	77	83	169	123	237
3	9	42	77	84	170	124	238
3 A	10	43	77	85	171	125	241
4	13	44	77	86	172	126	241
5	14	45	77	87	173	127	242
6	14	46	77	88	174	128	244
7	16	47	77	89	176	129	245
8	17	48	77	90	177	130	246
9	17	50	77	91	178	131	248
10	18	51	78	92	179	132	249
10 A	20	52	79	93	180	133	250
11	20	53	79	94	181	134	251
12	21	55	79	95	181	135	255
13	22	56	79	96	182	136	258
14	23	57	80	97	183	137	263
15	23	58	81	98	184	138	267
16	24	59	83	99	185	139	269
17	25	60	85	100	185	140	270
18	26	61	94	101	186	141	271
19	26	62	96	102	188	142	273
20	27	63	99	103	190	143	274
21	28	64	100	104	192	144	276
22	29	65	100	105	194	145	277
22 A	30	66	102	106	197	146	278
23	31	67	103	107	198	147	280
24	35	68	106	108	200	148	281
25	36	69	107	109	201	149	283
26	38	70	108	110	201	150	285
27	40	71	113	111	207	151	286
28	43	72	113	112	211	151 A	289
30	44	73	114	113	212	152	291
31	54	74	116	114	214	153	292
32	54	75	124	115	229	154	294
33	63	76	130	116	230	155	298
34	65	77	134	117	230	156	298
35	66	78	137	118	231	157	302
37	71	79	140	119	232	158	303
38	73	80	147	120	233	159	308
39	74	81	149	121	235	160	309

## Exhibits—continued:

No.	Page.	No.	Page.	No.	Page.	No.	Page.
161.....	316	172.....	349	179 A.....	380	187.....	393
162.....	320	173.....	350	179 B.....	383	188.....	394
163.....	330	174.....	351	180.....	384	189.....	394
165.....	334	175.....	355	181.....	385	190.....	395
166.....	335	175 A.....	357	182.....	387	191.....	396
167.....	337	175 B.....	364	183.....	388	192.....	396
168.....	343	176.....	375	184.....	389	193.....	397
169.....	345	177.....	378	185.....	392	194.....	398
170.....	346	178.....	378	186.....	393	195.....	398
171.....	347	179.....	380				

## Field-notes:

Original survey T. 18 N., R. 3 W., Exhibit 30.....	44
Resurvey " " " " 114.....	214
Inventory of plats, lists, etc., delivered to State authorities, Exhibit 17.....	25
Judgment.....	6

## Letters:

*Commissioner of General Land Office to register and receiver:*

Blake to R. and R. (Genesee), October 1, 1844, Exhibit 69.....	107
Edmunds to reg. (Ionia), September 5, 1863, " 86.....	172
" Kaichen, reg. (Detroit), June 18, 1864, Exhibit 121.....	235
Wilson, J., to reg. (Detroit), July 29, 1853, Exhibit 84.....	170
" " " 30, 1853, " 85.....	171
" " (Ionia), October 3, 1854, " 117.....	230
" J. S., to R. and R. (Ionia), January 30, 1868, Exhibit 151.....	286
" " " July 30, 1869, " 151 A.....	289
Sparks to R. and R. (Detroit), March 25, 1887, " 149.....	283
" (East Saginaw), Nov. 8, 1887, " 150.....	285
Williamson to R. and R. (Detroit), September 6, 1877, Exhibit 25.....	36
" " " " (inc.), " 143.....	275

*Register and receiver to Commissioner of General Land Office:*

Bell, reg. (Ionia), to C. G. L. O., September 23, 1854, Exhibit 116.....	230
--	-----

*Commissioner of General Land Office to surveyor general:*

Butterfield to S. G. (general instructions), November 21, 1850, Exhibit 3 A.....	10
Butterfield to Noble, December 12, 1850, Exhibit 9.....	17
" " April 13, 1852, " 12.....	21
" " March 8, 1852, " 80.....	147
Huntington to Haines, February 21, 1842 (inc.), Exhibit 59.....	84
" " April 2, 1842 (inc.), " 61.....	95
Hendricks to Emerson, May 20, 1858, " 126.....	241
" Chapman, January 2, 1857, " 171.....	347
" " February 3, 1857, " 173.....	350
" " " 24, 1857, " 175.....	355
Wilson, J., to S. G., June 7, 1853, Exhibit 83.....	169
" Chapman, September 19, 1854, Exhibit 87.....	173
" " October 6, 1854, " 89.....	176
" Noble, October 4, 1852, " 91.....	178
" Chapman, November 7, 1853, " 94.....	181
" " February 12, 1865, " 96.....	182
" Noble, January 15, 1853, " 180.....	384
Wilson, J. S., to Chapman, September 2, 1856, " 169.....	345

*Surveyor general to Commissioner of the General Land Office:*

Chapman to J. Wilson, September 27, 1854, Exhibit 88.....	174
" " " June 24, 1853, " 92.....	179
" " " October 29, 1853, " 93.....	180
" " " January 31, 1855, " 95.....	181

<i>m</i>	Chapman to Hendricks, December 9, 1856, Exhibit 170.....	346
	“ “ January 17, 1857, “ 172.....	349
	“ “ February 11, 1857, “ 174.....	351
	Emerson “ May 12, 1858, “ 125.....	241
	Haines to Huntington, March 4, 1842, “ 60.....	85
	Johnson to Blake, August 1, 1842, “ 63.....	99
	“ “ April 27, 1843, “ 65.....	100
	Lyon to Butterfield, July 10, 1849, “ 73.....	114
	“ Young, June 11, 1847, “ 82.....	168
	Noble to Butterfield, December 4, 1850, “ 8.....	17
	“ “ June 18, 1851, “ 10.....	18
	“ “ March 31, 1852, “ 11.....	22
	“ “ “ 5, 1851, “ 77.....	134
	“ “ February 10, 1852, “ 79.....	140
	“ “ September 18, 1852, “ 90.....	177
	“ “ April 21, 1852, “ 115.....	229
	“ “ February 28, 1851, “ 179.....	380
	“ J. Wilson, February 14, 1853, “ 181.....	385

*Surveyor general to deputy surveyor :*

Haines to Burt, April 11, 1842, “ 62.....	96
---	----

*United States officers to State officers :*

	Butterfield, C. G. L. O., to gov. of Mich., November 21, 1850, Exhibit 3.....	9
	Burdett, C. G. L. O., to Clapp, C. S. L. O., June 15, 1874, Exhibit 137.....	263
	Burdett, C. G. L. O., to gov. of Mich., November 17, 1875, Exhibit 188.....	394
	Baxter, acting C. G. L. O., to Clapp, C. S. L. O., April 10, 1876, Exhibit 189.....	394
	Baxter, acting C. G. L. O., to gov. of Mich., April 13, 1876, Exhibit 190.....	395
	Curtis, acting C. G. L. O., to gov. of Mich., November 10, 1875, Exhibit 133.....	250
	Curtis, acting C. G. L. O., to Clapp, C. S. L. O., September 13, 1875, Exhibit 139.....	269
	Curtis, acting C. G. L. O., to gov. of Mich., October 24, 1873, Exhibit 186.....	393
	Drummond, C. G. L. O., to gov. of Mich., March 25, 1873, Exhibit 131.....	248
	Drummond, C. G. L. O., to Clapp, C. S. L. O., January 5, 1873, Exhibit 185.....	392
<i>n</i>	Drummond, C. G. L. O., to Clapp, C. S. L. O., February 20, 1874, Exhibit 187.....	393
	Drummond, C. G. L. O., to Edmunds, C. S. L. O., December 27, 1871, Exhibit 24.....	35
	Hendricks, C. G. L. O., to Goodrich, deputy C. S. L. O., December 13, 1855, Exhibit 20.....	27
	Hendricks, C. G. L. O., to Gov. Bingham, December 13, 1855, Exhibit 21.....	28
	Hendricks to Treadwell, C. S. L. O., December 22, 1858, Exhibit 23.....	31
	Huntington, C. G. L. O., to Gov. Barry, February 21, 1842, Exhibit 59.....	83
	Huntington, C. G. L. O., to Gov. Barry, April 2, 1842, Exhibit 61.....	94
	McFarland, C. G. L. O., to gov. of Mich., August 27, 1881, Exhibit 146.....	278
	McFarland, C. G. L. O., to gov. of Mich., March 29, 1882, Exhibit 148.....	281
	Noble, S. G., to Gov. Barry, December 6, 1850, Exhibit 4.....	13
	“ “ January 3, 1851, “ 6.....	14
	Reg. and rec. (Detroit) to Partridge, C. S. L. O., September 10, 1877, Exhibit 143.....	274
	Stockslager, C. G. L. O., to gov. of Mich., January 22, 1889, Exhibit 193.....	397
	Stockslager, acting C. G. L. O., to Sleeper, deputy C. G. L. O., August 1, 1887, Exhibit 194.....	398
	Sparks, C. G. L. O., to gov. of Mich., September 28, 1887, Exhibit 195.....	398
	Wilson, J., C. G. L. O., to Gov. Parsons, January 13, 1854, Exhibit 15.....	23
	Wilson, J., C. G. L. O., to Gov. Parsons, March 13, 1854, Exhibit 16.....	24
	Wilson, J., C. G. L. O., to Goodrich, deputy C. S. L. O., April 25, 1855, Exhibit 19.....	26

Wilson, J., C. G. L. O., to Gov. Parsons, January 20, 1854, Exhibit 98.	184
Wilson, J., C. G. L. O., to Gov. Parsons, February 24, 1854, Exhibit 100.	185
Wilson, J., C. G. L. O., to Gov. Parsons, March 31, 1854, Exhibit 102.	188
Wilson, J., C. G. L. O., to Gov. Parsons, April 25, 1854, Exhibit 104.	192
Wilson, J., C. G. L. O., to Gov. Parsons, May 19, 1854, Exhibit 106.	197
Wilson, J., C. G. L. O., to Gov. Parsons, July 1, 1854, Exhibit 108.	200
Gov. Bingham, February 24, 1855, Exhibit 119.	232
Wilson, J. S., C. G. L. O., to gov. of Mich., May 21, 1860, Exhibit 22.	29
Wilson, J. S., acting C. G. L. O., to Sanborn, deputy C. S. L. O., September 23, 1859, Exhibit 183.	388
Williamson, C. G. L. O., to gov. of Mich., June 26, 1880, Exhibit 144.	276
Wood, ch'f cl'k S. G., to Treadwell, C. S. L. O., May 13, 1858, Exhibit 152.	291

*State officers to United States officers:*

Barry, Gov., to Noble, S. G., December 20, 1850, Exhibit 5.	14
President of U. S., February 3, 1842, " 57.	80
Crapo, Gov., to Edmunds, C. G. L. O., May 31, 1866, " 129.	245
June 20, 1866, " 155.	298
Clapp, C. S. L. O., to Burdett, C. G. L. O., April 15, 1875, Exhibit 132.	249
Clapp, C. S. L. O., to Drummond, C. G. L. O., April 30, 1874, Exhibit 136.	258
Clapp, C. S. L. O., to Burdette, C. G. L. O., August 12, 1875, Exhibit 138.	267
Goodrich, deputy C. S. L. O., to J. Wilson, C. G. L. O., April 17, 1855, Exhibit 18.	26
Jerome, Gov., to Kirkwood, Secretary of Interior, July 27, 1881, Exhibit 145.	277
Jerome, Gov., to C. G. L. O., March 20, 1882, Exhibit 147.	280
Lacey, C. S. L. O., to Edmunds, C. G. L. O., July 10, 1861, Exhibit 159.	308
Parsons, Gov., to J. Wilson, C. G. L. O., January 30, 1854, Exhibit 99.	185
Parsons, Gov., to J. Wilson, C. G. L. O., July, 1854, Exhibit 109.	201
Jan. 31, 1854, " 112.	211

*State officers to State officers:*

Lacey, C. S. L. O., to Gov. Blair, February 20, 1862, Exhibit 184.	389
Neasmith, C. S. L. O., to gov. of Mich., March 18, 1882 (inc.), Exhibit 147.	280
Sanborn, C. S. L. O., to Gov. Wisner, April 5, 1859, Exhibit 157.	302

*Miscellaneous letters:*

Blake, C. G. L. O., to Hon. A. S. Porter, October 4, 1842, Exhibit 64.	100
Blake, C. G. L. O., to Hon. Wm. Woodbridge, September 30, 1844, Exhibit 68.	106
Bates, dis. att'y, to Hon. Jas. L. Conger, February 10, 1851, Exhibit 177.	378
Bates, dis. att'y, to Butterfield, C. G. L. O., February 11, 1851, Exhibit 178.	378
Brevooort to Noble, S. G., February 11, 1851, Exhibit 179 A.	380
14, 1851, " 179 B.	383
Clapp, C. S. L. O., to W. L. Webber, December 27, 1876, Exhibit 192.	396
Frost, ch'f cl'k S. G., to J. Wilson, C. G. L. O., February 24, 1853, Exhibit 182.	387
Huntington, C. G. L. O., to President Tyler, February 17, 1842, Exhibit 58.	81
Howard, J. M., to Stuart, Secretary of Interior, December 13, 1850, Exhibit 176.	375
Kelly, Moses, report of, February 14, 1851, Exhibit 75.	124
Wadsworth, D. S., to Noble, S. G., Dec. 24, 1851 (inc.), Exhibit 79.	144
Woodbridge, Wm., to Blake, C. G. L. O., September 16, 1844, Exhibit 67.	103
Webber, W. L., to C. S. L. O., December 26, 1876, Exhibit 191.	396
Young, C. G. L. O., to Hon. A. Felch, February 17, 1849, Exhibit 71.	113
Young, C. G. L. O., to Hon. S. Breese, February 17, 1849, Exhibit 72.	113

## Lists of selections:

Surveyor general's Grand River No. 1, G. L. O., Exhibit 26	38
"                    "                    " S. L. O., " 110	201
supplemental No. 3, S. L. O., Exhibit 124	238
Surveyor general's Grand River supplemental No. 3, S. L. O. (inc.), Exhibit 136	258
Surveyor general's Cheboygan supplemental E., S. L. O., Exhibit 153	292
Surveyor general's Grand River No. 1, G. L. O., Exhibit 161	316
Approved list Ionia No. 1, G. L. O., Exhibit 27	40
"                    "                    4, S. L. O., " 101	186
"                    Genesee 1, " 103	190
"                    "                    2, " 105	194
g Approved list Genesee No. 3, S. L. O., Exhibit 107	198
"                    "                    Ionia 1, " 111	207
"                    "                    10, " 127	242
"                    "                    Traverse City No. 22, S. L. O., Exhibit 134	251
"                    "                    Ionia No. 20, " 140	270
"                    "                    "                    11, " 154	294
"                    "                    1, G. L. O., " 162	320

## Maps, plats, and diagrams:

Diagram in letter of June 18, 1851, Exhibit 10 A, opp.	20
" <i>in re</i> Barnes' application (inc.), Exhibit 88, opp.	176
Plat original survey T. 18 N., R. 3 W., " 31	54
" of swamp lands approved, T. 18 N., R. 3 W., Exhibit 32, opp.	55
" resurvey T. 18 N., R. 3 W., Exhibit 123, opp.	237
Motions of plaintiff to strike out certain exhibits	332
Order reviving suit against Charles A. Rust	5

## Patents and deeds:

Auditor general State of Michigan to Charles A. Rust, July 30, 1892, Exhibit 163	330
Brewer, Addison P., to Jesse Hoyt, February 21, 1870, Exhibit 52	79
Decree in partition to David W. Rust, June 28, 1878, " 53	79
Hoyt, Jesse, to David W. Rust, " 42	77
Rust, William A., to John F. Rust <i>et al.</i> , January 15, 1870, " 55	79
" David W., " October 3, 1878, " 41	77
"                    "                    January 30, 1879, " 43	77
"                    "                    "                    January 30, 1879, " 44	77
"                    " <i>et al.</i> , to George Rust, August 13, 1879, " 45	77
" George, to John F. Rust, September 28, 1881, " 46	77
" Laura <i>et al.</i> , to Amasa Rust <i>et al.</i> , 1881, " 47	77
" David W., Jr., to " October 28, 1881, " 48	77
" John F. <i>et al.</i> , to " 1882, " 50	77
" David W., to George Rust, " 56	79
State of Michigan to Edward W. Sparrow, October 14, 1887, " 33	63
"                    "                    "                    " 34	65
Sparrow, Edward W., to Michigan Land and Lumber Co. (Limited), October 31, 1887, Exhibit 35	66
United States to William A. Rust, May 10, 1870, Exhibit 37	71
"                    "                    "                    " 38	73
"                    "                    "                    " 39	74
"                    "                    "                    " 40	75
" Addison P. Brewer, January 10, 1867, Exhibit 51	78
" State of Michigan, Ionia No. 2, March 17, 1857, Exhibit 113	212
r United States to State of Michigan, Ionia No. 20, June 21, 1866, Exhibit 130	246
United States to State of Michigan, Traverse City No. 35, August 12, 1876, Exhibit 135	255
United States to State of Michigan, Ionia No. 34, July 31, 1876, Exhibit 141	271
United States to State of Michigan, Ionia No. 22, December 26, 1866, Exhibit 156	298
Plea	4



## Reports of land officers, acts of Congress, etc. :

C. G. L. O. and S. G. for 1843, Exhibit 66.....	102
“ “ 1844 to 1848, inclusive, Exhibit 70.....	108
“ “ 1849, “ 74.....	116
“ “ 1850, “ 76.....	130
“ “ 1850, “ 2.....	9
“ “ 1851, “ 78.....	137
“ “ 1852 to 1858, inclusive, “ 81.....	149
“ “ 1864, “ 122.....	237
“ and Secretary of the Interior for 1877, 1878, 1882, Ex. 166.....	335

Table of lands selected, approved and patented from reports C. G. L. O. 1855 to 1891, inclusive, Exhibit 165.....	334
---	-----

Committee on public lands to legislature of Michigan, 1861, Exhibit 158.....	303
--	-----

C. S. L. O. for 1852, Exhibit 97.....	183
---------------------------------------	-----

“ 1856, “ 118.....	231
--------------------	-----

“ 1855, “ 120.....	233
--------------------	-----

“ 1860 to 1878, inclusive, Exhibit 160.....	309
---	-----

“ 1853, 1854, 1871, 1876, 1882, 1886, Exhibit 167.....	337
--	-----

Message of Gov. Barry to legislature, 1851, Exhibit 7.....	16
--	----

Messages of Gov. Jerome and Gov. Alger, Exhibit 168.....	343
--	-----

Act of Congress granting swamp lands to Minnesota, Exhibit 22 A.....	30
--	----

Resolution legislature of Michigan, February 1, 1842 (inc.), Exhibit 57.....	80
--	----

## Requests to charge :

Of plaintiff.....	399
Of defendant.....	401

## Stipulations and concessions :

As to use of partial lists, patents, etc., Exhibit 1.....	8
“ published reports of C. G. L. O., etc.....	102
Verdict.....	4

## Witnesses :

Doxie, Geo. W.	
Direct examination.....	68
Cross “.....	69

Kerns, Richard.	
Direct examination.....	54
Cross “.....	55

Palmer, Oscar.	
Direct examination.....	55
Cross “.....	56
Redirect “.....	57
Recross “.....	58

Rust, Charles A.	
Direct examination.....	328
Cross “.....	329
Recalled—cross-examination.....	332

Sparrow, Edward W.	
Direct examination.....	325
Cross “.....	327

Webber, William L.	
Direct examination.....	327
Recalled—cross-examination.....	332
Redirect examination.....	332
Recross “.....	332

Writ of error.....	456
--------------------	-----

## 1 &amp; 2

## CALENDAR ENTRIES.

THE MICHIGAN LAND AND LUMBER COMPANY (LIMITED) }  
*vs.* } No. 7606.  
 AMASA RUST and CHARLES RUST.

1888.

- Feb. 11. Declaration filed, rule to plead entered.
- 22. Praecipe for appearance of defendants filed.
- 22. Appearance of defendants entered.
- 22. Plea filed.

1892.

- Mar. 29. Consent to substitution of John W. Champlin as attorney for plaintiffs filed.
- 29. Order of substitution entered.
- 29. Consent to substitution of Frank E. Robson as attorney for plaintiff filed.
- 29. Order of substitution entered.
- May 19. Note of issue, June term, 1892, filed by defendants' attorneys.
- Oct. 4. Note of issue, November term, 1892, filed by defendants' attorneys.
- Nov. 28. Trial by jury begins.
- 28. Leave granted to amend declaration by striking out three descriptions:  
       N. W.  $\frac{1}{4}$  N. W.  $\frac{1}{4}$  sec. 29, T. 18 N., R. 3 W.; N.  $\frac{1}{4}$  S. W.  $\frac{1}{4}$  sec. 29, T. 18 N.,  
       R. 3 W.; E.  $\frac{1}{4}$  S. W.  $\frac{1}{4}$  sec. 10, T. 18 N., R. 4 W.
- 29. Leave granted to amend declaration so as to claim one-half interest,  
       instead of whole of lands therein described.
- 29. Jury trial continued.
- 30. Trial concluded. Verdict for defendant- under instructions of court.
- 30. Time to settle bill of exceptions extended until second day of ensuing  
       March term.
- 30. Plaintiff's requests to charge filed.

1893.

- Feb. 13. Defendants' bill of costs taxed at \$64.60 and filed.
- Mar. 7. Time to settle bill of exceptions extended thirty days.
- April 3. Time to settle bill of exceptions extended thirty days.
- May 8. Time to settle bill of exceptions extended thirty days.
- 9. Affidavit of death of defendant Amasa Rust filed.
- 9. Order suggesting death of Amasa Rust, and that cause proceed against  
       remaining defendant.
- June 6. Time to settle bill of exceptions extended sixty days.
- Aug. 3. Judgment for defendant entered.
- 5. Time to settle bill of exceptions extended thirty days.
- 15. Bill of exceptions filed.

1894.

- Jan. 12. Assignment of errors filed.
- 12. Petition for writ of error, with allowance thereof, filed.
- 12. Writ of error issued.
- 12. Bond on writ of error filed.
- 12. Citation issued.
- 15. Writ of error returned, service accepted.
- 15. Citation returned, service accepted.

3

*Declaration.*

The Circuit Court of the United States for the Eastern District of Michigan.

STATE OF MICHIGAN, }  
*Eastern District,* } ss :

The Michigan Land and Lumber Company (Limited), organized under the laws of Michigan, plaintiff herein, by A. McDonell, its attorney, comes and files this declaration as commencement of suit, and complains of Amasa Rust and Charles Rust, who are inhabitants of said district, defendants in this suit. For that whereas, the said plaintiff, heretofore, to wit, on the first day of February, A. D. 1888, was possessed of certain real estate and premises, with the appurtenances, situate in the county of Clare, in said district, and State of Michigan, known and described as follows, that is to say: S E  $\frac{1}{4}$  of S E  $\frac{1}{4}$ , section 20, town 18 N, range 3 W; N W  $\frac{1}{4}$  of S W  $\frac{1}{4}$ , section 21, town 18 N, range 3 W; N W  $\frac{1}{4}$  of S E  $\frac{1}{4}$ , section 22, town 18 N, range 3 W; N W  $\frac{1}{4}$  of N W  $\frac{1}{4}$ , section 28, town 18 N, range 3 W; N W  $\frac{1}{4}$  of N W  $\frac{1}{4}$ , section 29, town 18 N, range 3 W; N  $\frac{1}{2}$  of S W  $\frac{1}{4}$ , section 29, town 18 N, range 3 W; N  $\frac{1}{2}$  of N E  $\frac{1}{4}$ , section 35, town 18 N, range 3 W; E  $\frac{1}{2}$  of S W  $\frac{1}{4}$ , section 1, town 18 N, range 4 W; of the value of five thousand dollars and upwards, and which said premises the said plaintiff claims in fee, and the said plaintiff being so possessed thereof, the said defendants, afterwards, to wit, on the second day of February, A. D. 1888, entered into the said premises and ejected the said plaintiff therefrom, and unlawfully withholds from the said plaintiff the possession thereof, to the damage of said plaintiff five thousand dollars. And the said plaintiff avers that the matter in dispute in this cause exceeds, exclusive of interest and costs, the sum or value of two thousand dollars, and that the said matter in dispute arises under the laws of the United States, viz., the acts of Congress under which the parties hereto respectively claim title to said lands; hence this suit.

A. McDONELL,  
*Attorney for Plaintiff.*

*Plea.*

STATE OF MICHIGAN, ss :

The Circuit Court of the United States for the Eastern District of Michigan.

AMASA RUST and CHARLES RUST  
*ads.*

THE MICHIGAN LAND AND LUMBER COMPANY (LIMITED), Organ-  
 ized under the Laws of Michigan.

The defendants, Amasa Rust and Charles Rust, by Hanchett, Stark & Hanchett, their attorneys, come and demand a trial of the matters set forth in the plaintiff's declaration.

HANCHETT, STARK & HANCHETT,  
*Attorneys for Defendants.*



THE MICHIGAN LAND AND LUMBER COMPANY (LIMITED) }  
*vs.* } No. 7606.  
 CHARLES RUST, Surviving Defendant.

The jury by whom the issue in this cause was tried having rendered a verdict in favor of said defendant, now, on motion of Mr. Gilbert Stark, of counsel for defendant, it is by the court now here considered, that said plaintiff take nothing by its suit, and that said defendant do go thereof without day. It is further considered that said defendant do recover against said plaintiff his costs and charges by him about his defense in this behalf expended to be taxed, and that said defendant have execution therefor.

7

*Bill of Exceptions.*

UNITED STATES OF AMERICA :

The Circuit Court of the United States for the Sixth Circuit, Eastern District of Michigan.

MICHIGAN LAND AND LUMBER COMPANY (LIMITED), Plaintiff, }  
*vs.* }  
 CHARLES RUST, Surviving Defendant.

At a session of said court, held at the court-room, in the city of Detroit, in said eastern district of Michigan, on the 28th day of November, A. D. 1892, before the Honorable Henry H. Swan, district judge, the issue joined between the parties came on to be tried by a jury of the said eastern district of Michigan, good and lawful men, for that purpose duly impaneled, tried and sworn, at which day there came the plaintiff, as well as said defendants, and their respective attorneys, and thereupon the said parties proceeded to the trial of said issue.

And upon the trial thereof, the plaintiff's counsel, to maintain and prove the issue upon its part, after reading the description of lands given in the declaration, and stating that it appeared that defendants had no interest in the following parcels, viz., N W  $\frac{1}{4}$  of N W  $\frac{1}{4}$  of section 29, 18 N, 3 W, asked leave to amend the declaration by striking out this description, which motion was granted, and so ordered.

And plaintiff's counsel further moved for leave to amend the declaration herein so as to claim but an undivided one-half in fee of descriptions remaining in said declaration, which motion was granted, and so ordered.

8 And then offered and read in evidence the following stipulation, in writing, between the parties, marked

EXHIBIT 1.

It is hereby stipulated between the parties hereto, by their respective attorneys, certified copies of all lists of lands known as surveyor generals' lists, approved lists, lists of railroad lands, all

patents from the United States Government to the State of Michigan, and all other lists and documents covering numerous descriptions of land, such lists, patents and documents being a part of the records of any public office, may omit the descriptions of land in whole or in part, and shall not be objectionable as evidence because not containing all the descriptions in such lists, patents or documents. The certificate of the proper officer that such copy is a true copy of such lists, patents or documents, so far as they respectively relate to the descriptions given in such copy, shall be received with the same force and effect as though the copy were a complete copy of all descriptions actually contained in the original lists, patents or documents.

And it is further stipulated that a certificate made in conformity with section 7505 of the 2d volume of Howell's Annotated Statutes of the State of Michigan, shall be receivable in evidence with the same force and effect as the same would be receivable in the courts of the State of Michigan, and that a certificate from the same officer that any given descriptions of land are not contained in any specified lists, documents or patents in his office, shall likewise be presumptive evidence of the facts so certified.

It is further stipulated that plaintiff is a partnership association organized under chapter 79, Howell's Annotated Statutes and Amendments.

9 And then read from the report of the Commissioner of the General Land Office for the year 1850, p. 16, as

#### EXHIBIT 2.

"Under the act passed by Congress on the 28th September, 1850, 'to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' it was decided, with your approbation, to charge the surveyors general of the several States in which their offices existed, in the first place, with making out lists of the lands granted to those States by that law, and, where those offices were abolished, to devolve that duty on the land officers of the respective districts.

"Full instructions have been made out and transmitted for this purpose, and by those instructions the act of Congress will be carried out, the right to all the swamp and overflowed lands unfit for cultivation secured to the States, and the interests of the Government protected."

Plaintiff's counsel then read

#### EXHIBIT 3.

GENERAL LAND OFFICE, *November 21, 1850.*

SIR: I have the honor to inclose you a copy of the instructions this day sent to the surveyor general of your State for the selection of the swamp and overflowed lands to which the State will be entitled by the act of 28th September, 1850.

You will perceive that by those instructions the surveyor general is authorized to receive such reliable evidence of the character of any of these lands, as may be presented by the authorities of the State; and, as many of the lands are probably surveyed at

10 dry seasons, and hence are not represented by the descriptive notes or plats as being of that character, I have supposed that it may be a matter of sufficient importance to induce you to call upon the county surveyors, or other respectable persons of your State, for a statement under oath of the swamp or overflowed lands in their respective counties. Such testimony, you will perceive, will be regarded as establishing the facts in the case, and, on receipt of the reports of the surveyor general, lists of the land will be prepared as required by the act submitted for the approval of the Secretary of the Interior, and plats and patents for the lands thus approved will at once be prepared and forwarded to you.

With great respect, your ob't serv't,

J. BUTTERFIELD,  
*Commissioner.*

His excellency the governor of Michigan, Lansing, Mich.

The instructions contained in the foregoing are as follows:

### EXHIBIT 3 A.

(Copy.)

GENERAL LAND OFFICE, *November 21st, 1850.*

SIR: By the act of Congress entitled "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," approved September 28, 1850, it is directed "That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made thereby unfit for cultivation, which shall remain unsold at the passage of this act, shall be, and the same are hereby granted to said State."

1st. By the 4th section of this act, it is directed that the provisions of it "shall be extended to, and their benefits be conferred upon each of the other States of the Union in which such swamp and overflowed lands may be situated."

11 2d. And "that in making out a list and plats of the lands aforesaid, all legal subdivisions, the greater part of which is 'wet and unfit for cultivation,' shall be included in said list and plats; but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom."

This act clearly and unequivocally grants to the several States those lands which, from being swampy or subject to overflow, are unfit for cultivation; in this class is included also all lands which, though dry part of the year, are subject to inundation at the planting, growing or harvesting season, so as to destroy the crop, and

therefore are unfit for cultivation, taking the average of the seasons, for a reasonable number of years, as the rule of determination.

You will please make out a list of all the lands thus granted to the State, designating those which have been sold or otherwise disposed of since the passage of the law, and the price paid for them when purchased.

The only reliable data in your possession from which these lists can be made out, are the field-notes of the surveys on file in your office; and if the authorities of the State are willing to adopt these as a basis of those lists, you will so regard them. If not, and these authorities furnish you satisfactory evidence that any lands are of the character embraced by the grant, you will so report them. The following general principles will govern you in making up those lists, to wit:

Where the field-notes are the basis and the intersections of the lines of swamp or overflow with those of the public surveys alone are given, those intersections may be connected by straight lines, and all legal subdivisions, the greater part of which are shown by these lines to be within the swamp or overflow, will be certified to the State; the balance will remain the property of the Government.

Where the State authorities may conclude to have the surveys made to determine the boundaries of the swamp or overflowed lands, those boundaries alone should be surveyed, taking connections with the nearest section or township corners; or,

Where the swamp or overflowed lands are on the borders of a stream or lake, the stream or lake could be meandered, and ordinates surveyed at suitable intervals from the borders of the stream or lake to the margin of the swamp or overflowed lands, and by connecting the ends of those ordinates next to that margin by straight lines, the boundaries of the swamp or overflowed lands can be ascertained with sufficient accuracy. In no case, however, should any such boundaries or ordinates be marked in the field, as they may produce difficulty in determining the lines and corners of the public surveys hereafter, and thus lead to litigation. The selections in all these cases will be made as before directed. Where satisfactory evidence is produced that the whole of a township, or of any particular and specified part of a township, or the whole of a tract of country bounded by specified surveyed or natural boundaries, is of the character embraced by the grant, you will so report it. The adjacent subdivisions, however, to be subject to the regulations above given; and in every case under each rule or principle herein prescribed, forty-acre lots or quarter quarter-section will be regarded as the legal subdivisions contemplated by the law.

The affidavits of the county surveyors and other respectable persons that may understand and have examined the lines, and that the lands bounded by lines thus examined and particularly designated in the affidavit are of the character embraced by the law, should be sufficient,

The line or boundary of the overflow that renders the land unfit for regular cultivation may be adopted as that which regulates the



grant. You will make out lists of these lands as early as practicable, according to the following form, one copy of which you will transmit to the land officers and another to this office. The lands selected should be reserved from sale, and after those selections are approved by the Secretary of the Interior, the register should enter all the lands so selected in his tract books as "granted to the State by act 28th September, 1850, being swamp or overflowed land." And on the plats enter on each tract. "State act 28th September, 1850." Copies of the approved lists will be sent to the registers for this purpose. Your early attention is required in this matter, that the grant may be disposed of as speedily as possible.

Very respectfully, your obt serv't,

J. BUTTERFIELD,  
*Commissioner.*

Counsel then read

#### EXHIBIT 4.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *December 6, 1850.*

His excellency John S. Barry.

SIR: I have the honor herewith to inclose to you a copy of instructions to me to designate the swamp lands granted to the State of Michigan by the act of Congress approved September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' " within their limits. To enable me to carry out the views of the Government in making this grant, I have to request of you information:

1st. Whether the State authorities are willing to adopt the field-notes of the surveys on file in this office as the basis of the lists of all lands thus granted to the State, or

2d. Whether the State authorities conclude to have the surveys made to determine the boundaries of the swamp or overflowed lands.

With great respect, I am your obt s'v't,

CHARLES NOBLE,  
*Sur. General.*

(This letter contained a copy of the same instructions heretofore read as Exhibit 3 A.)

14 And then read

#### EXHIBIT 5.

EXECUTIVE OFFICE, LANSING, *December 20, 1850.*

SIR: I have the pleasure to acknowledge the receipt of your letter of the 6th inst. Absence has prevented an earlier reply.

I am inclined to believe that a further survey would give the State a far greater amount of swamp lands than are designated as such in the records of your office; but, having no authority, I hardly feel at liberty to incur the expense that would attend such survey.

If all actions could be delayed until the meeting of the legislature, to which the matter could be submitted, I can hardly doubt that provision would be made for securing to the State all the benefits to be derived from the act of Congress in question.

I have the honor to be y'r ob't serv't,

JOHN S. BARRY.

Chas. Noble, sur. gen'l, Detroit.

And the answer thereto :

EXHIBIT 6.

(Private.)

SUR. GENERAL'S OFFICE, DETROIT, *Jan'y 3, 1851.*

His excellency John S. Barry.

DEAR SIR : I have received your letter of the 20th ult. I am persuaded from the examination of the notes returned to this office that the amount of "swamp land," designated as such on the notes, taking all the unsold lands together, must be greater than would now be found from an actual resurvey of the whole ; and I think there could be no doubt whatever that the net proceeds to the State would be much greater. The expense to the State of a re-  
 15 survey of the whole peninsulas (upper and lower) (for I do not see how it could properly be ascertained short of a full survey of the whole) would be very large ; and probably equal in amount the value of the lands designated by the act of Congress in question. The delay, too, necessarily attending the resurvey would be very great, and if no great advantages are to result therefrom, the benefit to be derived from act must be materially lessened. From the examinations already made of the notes of the surveyors returned to the sur. gen. office, I do not hesitate to say that in my judgment the true interest of the State will be much better promoted by making the designation of the "swamp lands" from the notes. I beg pardon for thus obtruding my opinion upon your consideration, but I know you will appreciate my views and motives in so doing. I may add, perhaps, with great propriety, that the views of the late sur. gen. on this subject are the same as my own, as I have learned from a conversation with him upon the subject.

I am with great respect your ob't serv't,

CHARLES NOBLE.

Since closing this letter, your favor of the 1st inst. has been rec'd. I cannot find in the law of Congress, or in the instructions to me from the Gen. Land Office, any auth rity for designating a portion of the "swamp lands" from the notes of the surveyors returned to this office, and a portion by a resurvey. My construction of the instructions were that the *whole* were to be designated either in the one way or the other. These lands are to be designated, all of them, from the notes of survey in this office *unless* the State authorities

choose to survey. It will take some weeks to go through with the examinations of the notes and maps, and my report will not probably be made before the middle of February, and probably not until the 1st of March.

## CHARLES NOBLE.

Plaintiff's counsel then read in evidence an extract from the message of the governor of Michigan to the legislature of 1851, found on pages 24 and 25 of the Joint Documents of Michigan for 1851, as follows :

## EXHIBIT 7.

"By an act of Congress, passed at its last session, all unsold swamp and overflowed lands, thereby made unfit for cultivation, were granted to the State, upon the condition that the proceeds of their sale should be applied, as far as necessary, to the purpose of reclaiming them by means of levees and drains. From information deemed reliable, the State contains of this description of lands yet unsold about four millions of acres. How far this grant may be found beneficial to the State, after discharging the trust imposed, cannot now be determined. I doubt not, however, that the reclamation of the lands may be effected by a judicious system of drainage at an expense much less than their market value, and thus secure considerable revenue to the State. The result will, however, much depend upon the course now or hereafter adopted by the legislature. The wasteful expenditure of a previous similar grant should admonish us to husband this resource with economy.

"While it will not be advisable, nor under the constitution permitted, to relax our exertion to pay the public debt, it will be a great relief to bring in aid of that object this and other like resources that may come within our control. The most appropriate method of proceeding with the trust imposed may, perhaps, be left to a commission to be by you established, under such directions, restrictions and limitations as shall, on examination, be deemed advisable.

"Some additional lands, of the description named, might probably be secured, besides those designated in the original surveys, should the legislature deem it expedient to provide for the expense of employing county surveyors or others to ascertain, by actual examinations, their location, and report the same to the surveyor general. This privilege has been extended to the State, and the legislature is best competent to determine whether the additional lands thus to be secured would more than compensate the outlay required."

Plaintiff's counsel then read

EXHIBIT 8.

SURVEYOR GENERAL'S OFFICE, DETROIT, *Dec. 4, 1850.*

SIR: I have received your communication of the 21st ult., relative to the swamp or overflowed lands granted to this State by the act of Congress, approved 28th September last.

A statement of those lands will be made out in accordance with the instructions embraced in the communication above referred to, as soon as practicable. Before preparing such a statement, however, it will be necessary to obtain, from some source, a list of all the sold or unsold lands in each land district in this State, as there is no means in this office of ascertaining those facts.

Your instructions in regard to this matter are requested. Shall the registers be requested to furnish such lists, or will they be furnished by the department at Washington.

Very respectfully, your ob't serv't,

CHARLES NOBLE,  
*Surveyor General.*

J. Butterfield, Esq., Commissioner.

And the answer thereto:

EXHIBIT 9.

GENERAL LAND OFFICE, *Dec. 12th, 1850.*

Charles Noble, sur. gen'l, Detroit, Mich.

SIR: Your communication of the 4th inst. has been received, relative to the selection of swamp and overflowed lands granted to the State of Michigan by the act of 28th September, 1850, and suggesting the necessity of obtaining a list of all the sold or unsold lands in each district, as a preliminary to making up the statement of the particular lands granted to the State by the law.

In answer, I would suggest that the making up of lists of all the lands sold or otherwise disposed of, would devolve a great amount of labor on the land officers, most of which may be avoided by preparing statements for each district of all the lands in each, of the character embraced by the law, leaving a wide column for remarks. These lists can be sent to the land officers, with instructions to designate, in the column of "remarks," each tract that has been sold or disposed of, giving the date and manner of disposal of those taken up since the 28th September, 1850, and when sold, the price paid for them. These lists, with the annotations of the land officers, should then be transmitted to this office, that they may be compared with the tract books here, and clear lists made out of the lands falling to the State under the law.

Very respectfully, your ob't serv't,

J. BUTTERFIELD,  
*Commissioner.*

And then read

EXHIBIT 10.

SURVEYOR GENERAL'S OFFICE, DETROIT, *June 18, 1851.*

SIR: By your instructions dated 21st November, 1850, relative to the grant of swamp lands by the Government to this State, it is required in making out the lists of such lands at this office that "the intersections of the lines of swamp or overflow with those of the public surveys be connected by straight lines," "and all legal subdivisions, the greater part of which are shown by these lines to be within the swamp or overflow will be certified to the State, the balance will remain the property of the Government."

19 The field-notes are made the basis from which these lists are to be made out, but it is inferred that the plats, which are supposed to be a true delineation of the field-notes, are to be taken as such, and the connections of the swamps and overflow made upon them, thereby designating the lands which are to be included in the grant.

The original plats in this office were formerly made by the deputy surveyor generally in a hurried manner, and they are therefore not entirely reliable for accuracy. A large portion of the plats on file in this office are of this character, and it has been found necessary to compare them with the field-notes before proceeding with the lists. This labor has been performed, but there still remains a difficulty which will be readily seen by reference to the inclosed diagram. The connections of the lines of swamps can be made without difficulty where swamps are noted on two sides of a section, but, where it is otherwise, there is no rule for determining the extent or bounds of the swamp lands.

I would most respectfully ask your instructions relative to this subject, so that in making up the lists in accordance with your instructions referred to, of the 21st November last, some fixed and uniform rule may determine all cases of difficulty as to the extent and boundary of the swamp lands.

The annexed diagram is made to show the method of connecting the swamp by straight lines from one intersection to another, exhibiting also the impossibility of connecting isolated swamps and wet and swampy lands, the boundaries of which are not defined in the field-notes.

Please return this diagram with any corrections and instructions which may be required.

Very respectfully, your ob't servant,

CHARLES NOBLE,  
*Surveyor General.*

J. Butterfield, Esq., Comm'r.

20 The diagram referred to in the foregoing letter is as follows:

EXHIBIT 10 A.

(Map opposite.)

(Here follows diagram marked page 20a.)

And then read

EXHIBIT 11.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *March 31, 1852.*

SIR: I transmit herewith a list of swamp lands in the Kalamazoo and Grand River land districts, which have been made up in accordance with your instructions of 21st November, 1850. These lists were transmitted to the registers of the respective districts in accordance with your instructions of Dec. 12, 1850, and have been returned with the annotations of the registers.

I also transmit herewith two abstracts showing the lands which have been sold in the above-named districts since the 28th Sept., 1850, up to the date of the certificates of the registers; also lists of lots that have been subdivided, necessarily, upon the original plats in this office.

It will be observed that many of the lands which are denominated "swamp lands," in the list of the Kalamazoo district, have been sold. As this is in the most settled part of the State, where a great portion of *all* the lands have been sold, it is not surprising that such is the case, particularly as it has been ascertained that the deputies, or some of them at least, in the early surveys in this State, did not make the distinction which is now observed between marshes and prairies, and it was quite impossible to determine by the field-notes what were really swamp or marshes, and what were prairies, not intended to be included in the grant.

21 Lists of the "swamp lands" in the Detroit and Saginaw land districts have been made, and they are now in the hands of the registers, from whom returns are expected daily.

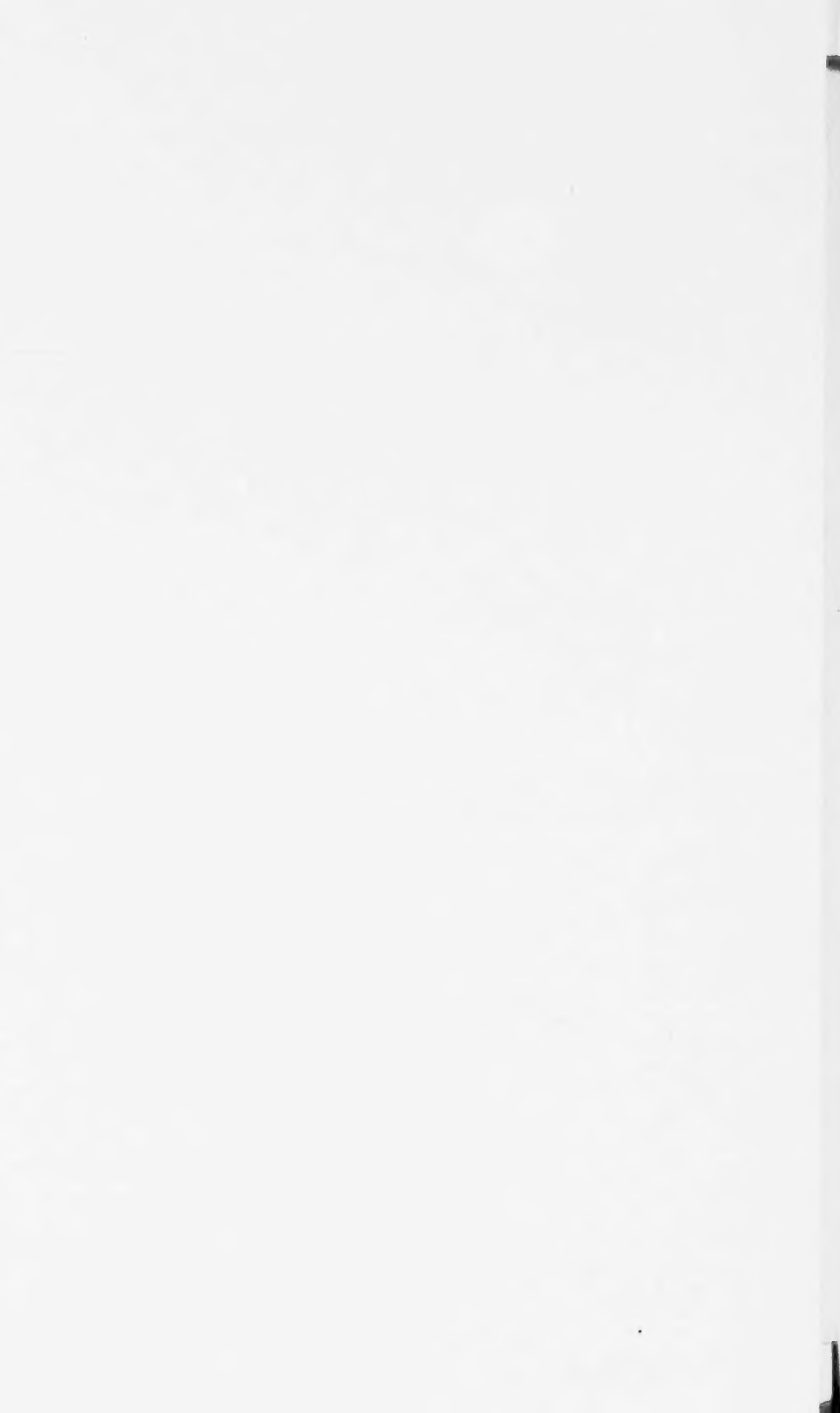
The list for the Lake Superior district has been completed so far as the surveys have been made, and it will be forwarded to the register by the first mail which leaves for Sault St. Marie.

I am, sir, very respectfully, your ob't serv't,

CHARLES NOBLE,  
*Surveyor General.*

J. Butterfield, Esq., Commissioner.

FOLDOUT(S) IS/ARE TOO LARGE TO BE FIL





And the answer thereto,

EXHIBIT 12.

GENERAL LAND OFFICE, *April 13th, 1852.*

Charles Noble, Esq., surveyor general, Detroit, Michigan.

SIR: Yours of the 31st ultimo, accompanied with lists of the swamp and overflowed lands in the Kalamazoo and Grand River districts, selected by you under instructions from this office, dated November 21st, 1850, has been received. The lists appear to be in due form, but the certificates of approval attached thereto appear somewhat vague and uncertain, and the latter part of your letter is calculated to throw still more doubt upon the character of the selections on account of the great uncertainty of the notations made upon the field-notes on file in your office, or at least upon some of them. This office has no means of knowing how far these uncertain remarks upon the field-notes extend, or how much of the land embraced in these lists is in this condition. I have therefore to request that you will make out and transmit to this office more definite certificates of approval to be attached to these lists, provided, that with all the knowledge in your possession you can consistently do so. If not, you will make out an additional list of all

22 the tracts relative to which you entertain any doubts, and request the State authorities to furnish you with evidence of the character of these lands, to enable you to approve and report all that are now in doubt, or to reject the same, as the evidence adduced may warrant you to do. As soon as this is done, you will report all the tracts approved upon the evidence adduced by the State authorities and those rejected upon that evidence, together with a certificate of approval of the remaining tracts embraced in the lists now in this office, and about which there is no question of doubt. I would suggest that to accomplish this object it may become necessary to require personal examinations to be made in many instances; but whatever reasonable evidence that will warrant you to certify and approve the lists as including lands embraced in the act making the grant will be sufficient. By suggesting to the State authorities that the field-notes in your office in many instances are too indefinite and uncertain for you to perfect the lists without further evidence, they will no doubt at once take the necessary steps to procure such evidence. If, however, they should decline to do so, you will, as before directed, make out a list of these doubtful tracts and transmit the same, with your approval of the remaining tracts, to this office without unnecessary delay.

In reporting lists of these lands in the future, you will leave out all the tracts that were sold or otherwise disposed of prior to the 28th day of September, 1850, the date of the act making the grant, as the tracts otherwise disposed of are only an additional incumbrance to the already heavy lists. The tracts sold and disposed of since that date, you will report as heretofore.

Very respectfully, your ob't serv't,

J. BUTTERFIELD,  
*Commissioner.*

Plaintiff then offered in evidence a letter from surveyor general to Commissioner of Land Office, dated May 12th, 1858, transmitting supplemental list No. 3, Grand River, which was received and marked "Exhibit 13," and a letter dated May 20th, 1858, 23 acknowledging receipt of above list, which was received and marked "Exhibit 14," which exhibits were afterwards withdrawn as hereinafter appears.

Plaintiff's counsel then read

EXHIBIT 15.

GENERAL LAND OFFICE, *January 13th, 1854.*

His excellency Andrew Parsons, governor of Michigan, Lansing, Mich.

SIR: I have the honor to transmit herewith a certified copy of list No. 1 of swamp and overflowed lands, selected as enuring to the State of Michigan, under the provisions of the act of Congress approved September 28, 1850, in the district of lands subject to sale at Ionia, Mich., taken from the original on file in this office, which, on the 27th day of October, 1853, was approved by the Secretary of the Interior.

The plat or diagram by which said list should be accompanied has not yet been completed. As soon as finished it will be transmitted to your address.

You will be pleased to acknowledge the receipt of said list, and transmit to this office your request for the patents to issue, upon the receipt of which, or as soon thereafter as practicable, patents will be issued conveying the fee-simple title in said lands to the State of Michigan.

With great respect, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

24 And then read

EXHIBIT 16.

GENERAL LAND OFFICE, *March 13, 1854.*

His excellency Andrew Parsons, governor of Michigan, Lansing, Michigan.

SIR: I have this day deposited in the post-office, for transmission to your address, a diagram showing the swamp and overflowed lands selected as enuring to the State of Michigan, under the provisions of the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Ionia, Michigan.

On said diagram the lands already approved to the State under said act are designated by being colored red, and those lands erroneously disposed of subsequent to the passage of said act are designated by being colored green.

You will please acknowledge the receipt of said diagram at your earliest convenience.

With great respect, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

Plaintiff's counsel then offered in evidence certain schedules and receipts, from which it appeared that on May 15th, 1858, and February 6th, 1860, the surveyor general, under instructions from the Commissioner of the General Land Office, dated April 1st and 21st, 1857, in pursuance of acts of Congress, turned over to the State land office of Michigan, all the field-notes, maps, books, documents, papers, records, etc., appertaining to the surveys of the United States lands and land titles within the limits of the State of Michigan, inventories for which were made, which inventories, so far as it is deemed important to print the same, are as follows:

25

## EXHIBIT 17.

*First Inventory.*

## Field-notes.

\* \* \* The original field-notes of all the public surveys in the Lower Peninsula, north of the first correction line and west of the meridian, except township lines of T. 28 N, R. 1 west, and notes of resurvey of subdivisions of same.

## Plats.

\* \* \* The original plats of all townships in the Lower Peninsula, north of the first correction line, and west of the meridian, except T. 28 N, R. 1 west. \* \* \*

## Miscellaneous papers, etc.

The notes of examination of original surveys. The notes of corrections by deputies where no resurveys required. \* \* \*

*Second Inventory.*

\* \* \* The original field-notes of all townships which have been resurveyed. \* \* \*

Record of field-notes of a portion of the public surveys in the Lower Peninsula contained in 59 volumes, to wit: \* \* \* Townships 11 to 20 N, R's 1, 2, 3, 4, etc., west. \* \* \*

Record maps unbound \* \* \* of 204 townships N of first correction line, and west of the meridian in the Lower Peninsula. \* \* \*

One bundle of cancelled maps (resurveyed).

26

## Miscellaneous papers.

Original lists of swamp lands selected in the State of Michigan with supplements. \* \* \*

Counsel then read

# EXHIBIT 18.

STATE LAND OFFICE,  
LANSING, MICH., 17th April, 1855.

SIR: Under the second section of the act for the relief of purchasers and locators of swamp and overflowed lands, what proof or *evidence* shall you require that the lands there referred to are swamp, within the meaning of the act of Sept. 28th, 1850, and whether this proof must be submitted within 90 days from the passage of the act first above referred to.

The list of *all* swamp lands sold at this office will be very soon transmitted to your department.

I have the honor to be, very respectfully,

Your obedient servant,

ALLEN GOODRICH,  
*Dep'y Commissioner.*

Hon. John Wilson, Com'r Gen'l L'd Office, Washington.

Endorsed: April 25, 1855.

And the acknowledgment of the same:

# EXHIBIT 19.

GENERAL LAND OFFICE, April 25th, 1855.

Allen Goodridge, Esq., deputy commissioner, etc., Lansing, Michigan.

SIR: I have received your letter of the 17th instant, asking what proof will be required under the second section of the act of 2d March, 1855, that lands selected for the State and disposed of by the United States, were swamp and overflowed lands within the intent and meaning of the act of 28th Sept'r, 1850, and also whether the proof must be submitted within ninety days from the passage of the law.

In reply I would state that this office is not yet prepared to decide as to the nature of the proof which will be required under said act; it is not necessary, however, that it should be furnished within the time mentioned by you. When the report of sales shall have been received and examined, full instructions will be issued.

Very respectfully, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

And

# EXHIBIT 20.

GENERAL LAND OFFICE, December 13, 1855.

Allen Goodrich, Esq., deputy comm'r State land office, Lansing, Michigan.

SIR: Referring to the letter to you from this office, dated April 25th last, I have to state that the State of Michigan, having by legis-

lative enactment agreed to abide by the field-notes of the surveys on file in the surveyor general's office as the basis on which to accept the swamp and overflowed lands granted by the act of 28th September, 1850, no further proof will be required in order to enable the State to avail herself of the benefits of the act of 2d March, 1855, "for the relief of purchasers and locators of swamp and overflowed lands."

A letter on this subject has this day been addressed to his excellency, the governor of Michigan.

Very respectfully, your ob't serv't,

THOS. A. HENDRICKS.

*Commissioner.*

28 Plaintiff's counsel then read

### EXHIBIT 21.

GENERAL LAND OFFICE, *December 13th, 1855.*

His excellency Kinsley S. Bingham, governor of Michigan, Lansing, Michigan.

SIR: On the 12th of May last, the commissioner of the State land office, at Lansing, reported to this office a list of the swamp and overflowed lands selected as enuring to the State of Michigan, under the provisions of the act of Congress approved September 28th, 1850, which has been sold by the said State—the report being made in accordance with the provisions of the first section of the act, "for the relief of purchasers and locators of swamp and overflowed lands," approved March 2d, 1855. This list has been carefully compared with the books of this office, and, with the exception of the several tracts hereinafter mentioned, the sales by the State appear correct and regular.

S E  $\frac{1}{4}$  of S W  $\frac{1}{4}$  sec. 17, T 2 N, R 2 E, sold by the State December 15th, 1853, located at U. S. land office, October 25th, 1854, w't 2564, act of 1850.

S E  $\frac{1}{4}$  of N E  $\frac{1}{4}$  sec. 14, T 7 S, R 3 W, sold by the State Feb'y 10, 1855; sold by U. S. Feb'y 19th, 1852. Ctf. 30347.

In the first of the foregoing instances, the sale by the State having been made at a date prior to the location at the United States land office, no patent can issue by the President until the State shall release her claim to the land "in such form as shall be prescribed by the Secretary of the Interior."

In the latter case the United States sale having been made prior in date to the sale by the State a patent will issue, and the purchase-money be paid over by the State.

I would call your attention to the following erroneous sales made by the State, to wit:

N W $\frac{1}{4}$ of S E $\frac{1}{4}$ sec. 17, T 3 S, R 4 E.	Sold in 1844.
W $\frac{1}{2}$ of N E $\frac{1}{4}$ " 1, " 4 " " 14 W.	" 1847.
W $\frac{1}{2}$ of S W $\frac{1}{4}$ " 34, " 9 N " 14 E.	" 1836.
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ " 34, " 9 " " 14 "	" 1836.
W $\frac{1}{2}$ of N E $\frac{1}{4}$ " 36, " 5 S, " 18 W.	" 1835.
N W $\frac{1}{4}$ of S E $\frac{1}{4}$ " 36, " 5 " " 18 "	" 1835.
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ " 30, " 7 N. " 13 E.	Twice sold by State.

Lists of land selected as swamp and overflowed, and sold by the United States after the passage of the law of the 28th of September, 1850, will be prepared and sent to the State authorities as speedily as is practicable, in order that the State may make claim for the purchase-money received therefor; also lists of the lands located after the passage of said act, accompanied with a special certificate authorizing the locations of other lands in lieu thereof.

The State of Michigan having, by legislative enactment, agreed to accept the field-notes of the surveys on file in the surveyor general's office as the basis on which to accept the lands granted by the law of 1850, and all of the selections having been made from those records, no further proof is regarded as being necessary.

With great respect, your ob't serv't,

THOS. A. HENDRICKS,

*Commissioner.*

And

#### EXHIBIT 22.

GENERAL LAND OFFICE, *May 21st, 1860.*

His excellency the governor of Michigan, Lansing, Michigan :

SIR: I enclose herewith a copy of the act of Congress approved March 12th, 1860, entitled "An act to extend the provisions of an 'Act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' to Minnesota and Oregon — for other purposes."

In the second section of this act the period within which the selections under the grant of 1850 are to be made is limited. I have therefore to advise you that as the office of surveyor general for Michigan has been abolished, this office will proceed to ascertain from the transcript of the field-notes on our files whether there are any lands of the class, in addition to those reported by the surveyor general, remaining to be certified to the State.

Be pleased to acknowledge the receipt hereof, and to inform me when the next session of the legislature of your State will commence, and if the session is limited by law, to advise me of the day of adjournment.

With great respect, your ob't serv't,

JOS. S. WILSON,

*Commissioner.*

The inclosure referred to in the foregoing is

EXHIBIT 22 A.

An act to extend the provisions of "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits" to Minnesota and Oregon, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the provisions of the act of Congress entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits, approved September twenty-eight, eighteen hundred and fifty, be and the same are hereby extended to the States of Minnesota and Oregon: Provided, That the grant hereby made shall not include any lands which the Government of the United States may have reserved, sold or disposed of (in pursuance of any law heretofore enacted), prior to the confirmation of title to be made under the authority of the said act.

31 SEC. 2. And be it further enacted, That the selections to be made from lands already surveyed in each of the States, including Minnesota and Oregon, under the authority of the act aforesaid and of the act to aid the State of Louisiana in draining the swamp lands therein, approved March second, one thousand eight hundred and forty-nine, shall be made within two years from the adjournment of the legislature of each State at the next session after the date of this act, and as to all lands hereafter to be surveyed within two years from such adjournment at the next session, after notice by the Secretary of the Interior to the governor of the State that the surveys have been completed and confirmed.

Approved March 12, 1860.

Plaintiff's counsel then read

EXHIBIT 23.

GENERAL LAND OFFICE, Dec. 22d, 1858.

S. B. Treadwell, Esq., com'r State land office.

SIR: The subject of the swamp grant of Sept. 28th, 1850, so far as the same relates to the State of Michigan, in view of the basis adopted by the State in designating the land granted and the numerous resurveys made since the passage of the law, presents peculiarities which require an action on the part of the authorities of the State to enable us to adjust the business with proper regard to the evidences in the case. To present the matter is the purpose of this communication.

The surveyors general of the district from time to time have reported selections in lists from the evidences of the surveys as originally made.

Such selections were examined with the records of this office, and so far as they were found vacant and not interfered with by settlements, were submitted to and approved by the Secretary of the Interior.

The authorities of the State were immediately thereafter furnished with certified copies of the lists containing the lands thus approved.

Since such approvals were made and certified, the surveyors general, upon the evidences of the resurvey of many townships, have forwarded lists to supersede and abrogate the reports made in townships described therein.

These subsequent selections differ materially from the former ones.

The patents for probably one-half of the townships in this condition as originally selected and reported, were prepared and transmitted prior to the receipt of the subsequent reports based upon the evidences of the resurveys.

The balance of the selections originally made, and which are superseded by reports under resurveys, have been approved and certified, but are not carried into patent, nor can they be as thus approved, for the reason that the reports made after the resurveys are the only proper evidence upon which our action must be made, in determining the grant.

So far as the patents have been issued, it is not intended to make any alteration in the lists, but when the indemnity provisions of the act of 2d March, 1855, come to be executed, a comparison between the reports based upon the original surveys and reports made after resurveys, will be made, and where the lands in the original reports do not appear in the subsequent reports, a deduction to that extent will be made from the indemnity certificate. This, it is believed, will be equal justice to all interested.

The paper herewith enclosed will show in what townships the lands have been patented as first selected, and those townships in which the lands are approved but not patented, and it is forwarded with the request that the proper authorities of the State may elect to receive the grant, with reference to those townships in which the lands have not been patented, as the selections are made upon the evidences of the resurveys.

It is our purpose to submit to the Secretary of the Interior, for a revocation of approval, so much of the lists of the several land districts as embrace the tracts in the condition specified; forwarding at the same time a list of the tracts as subsequently reported for his approval.

You will be pleased to present the matters herein contained to the proper State authorities.

The patents for the swamp lands in Clinton, Ottawa and Newaygo counties, so far as the difficulties above described do not exist, are now in course of preparation, and will be forwarded as soon as they are completed.

Very respectfully, your ob't serv't,

THOS. A. HENDRICKS, *Comm'r.*



The lists referred to in the foregoing are as follows:

A list of townships in Michigan in which the tracts, as reported to the Commissioner of the General Land Office from the evidences of the original surveys, have been approved and patented under the grant of Sept. 28, 1850.

1.	2.	3.	4.	5.
31 4 E	35 1 E	15 1 W	22 2 W	37 2 W
31 5 "	35 2 "	15 12 "	23 1 "	38 2 "
31 6 "	35 3 "	16 1 "	23 2 "	
31 7 "	35 4 "	16 12 "	24 1 "	
31 9 "	35 5 "	17 1 "	24 2 "	
32 4 "	35 6 "	18 2 "	25 1 "	
32 5 "	36 1 "	18 4 "	25 2 "	
32 9 "	36 2 "	18 5 "	26 1 "	
33 4 "	36 3 "	19 2 "	26 2 "	
33 5 "	36 4 "	19 4 "	27 1 "	
33 6 "	37 1 "	19 5 "	27 2 "	
34				
33 7 E	37 2 E	19 6 W	28 2 W	
34 1 "	38 1 "	19 7 "	29 1 "	
34 2 "	38 2 "	20 1 "	29 2 "	
34 3 "		20 2 "	30 2 "	
34 4 " "	11 2 W	20 4 "	35 1 "	
34 5 "	12 2 "	20 5 "	35 2 "	
34 6 "	13 1 "	20 6 "	36 1 "	
34 7 "	13 2 "	20 7 "	36 2 "	
34 8 "	14 1 "	22 1 "	37 1 "	

A list of townships in Michigan in which the tracts as reported to the Commissioner of the General Land Office, from the evidences of the original surveys, have been approved but not patented under the grant of Sept. 28, 1850.

8 2 W	23 5 W	29 4 W	45 18 W
9 2 "	23 6 "	29 12 "	45 19 "
10 2 "	23 7 "	30 7 "	45 20 "
14 14 "	23 9 "	31 6 "	46 18 "
15 13 "	24 3 "	31 7 "	46 19 "
15 14 "	24 6 "	31 9 "	46 20 "
16 13 "	24 8 "	31 11 "	47 18 "
16 14 "	24 9 "	31 12 "	47 19 "
18 3 "	25 4 "	32 6 "	47 20 "
19 3 "	25 6 "	32 7 "	48 18 "
20 3 "	25 7 "	32 8 "	48 19 "
21 4 "	25 8 "	32 9 "	
21 7 "	25 9 "	35 3 "	
21 8 "	26 4 "	36 3 "	
22 5 "	26 6 "	27 3 "	

22	6	"	26	9	"	38	3	"
22	7	"	26	10	"	39	3	"
22	8	"	28	3	"	44	18	"
22	9	"	28	4	"	44	19	"
23	4	"	29	3	"	44	20	"

35 And

EXHIBIT 24.

K. DEPARTMENT OF THE INTERIOR, E. K.  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., *December 27, 1871.*

Charles A. Edmonds, Esq., State commissioner of lands, Lansing, Michigan.

SIR: In reply to your letter of the 13th inst. in regard to the swamp lands in township 31 N, range 8 west, Michigan, I have to say, that it appears from our records, that the lands selected as swamp in said township, according to the old survey, were approved by the Secretary of the Interior, Oct. 27, 1853, before the resurvey, and were, subsequently, on November 10, 1862, after the resurvey, patented to the State, according to the descriptions of the old survey.

This office has always regarded such approval and patenting final, especially when the description, according to the old plat, identifies the land with a reasonable approach to accuracy.

The General Land Office has no control over the State authorities in the sale of such lands by the State, and cannot determine the manner in which the State should describe them.

Very respectfully, your ob't serv't,

WILLIS DRUMMOND,  
*Commissioner.*

36 And then read

EXHIBIT 25.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., *Sept. 6, 1877.*

(Address only the Commissioner of the General Land Office.)

Register and receiver, Detroit, Mich.

GENTLEMEN: The tracts below described included in homestead entries in your district, are found to be in conflict with an apparent claim of the State of Michigan, under the swamp grant, to wit:

S E $\frac{1}{4}$ S W $\frac{1}{4}$ sec. 6, and N W fr <sup>1</sup> $\frac{1}{4}$	7, 35 N 4 E., Hd.	1756
E $\frac{1}{2}$ S W $\frac{1}{4}$	7 " " "	1368
N W $\frac{1}{4}$ N E $\frac{1}{4}$ and N E $\frac{1}{4}$ N W $\frac{1}{4}$	29 " " "	1754
S $\frac{1}{2}$ N E $\frac{1}{4}$ and N E $\frac{1}{4}$ S E $\frac{1}{4}$	19 34 N 5 E	1761
S $\frac{1}{2}$ N W $\frac{1}{4}$	19 " " "	1284
W $\frac{1}{2}$ S W $\frac{1}{4}$ and S E $\frac{1}{4}$ S W $\frac{1}{4}$	19 " " "	1273
N E $\frac{1}{4}$ S W $\frac{1}{4}$ and N W $\frac{1}{4}$ S E $\frac{1}{4}$	19 " " "	1285
N W $\frac{1}{4}$ S E $\frac{1}{4}$	22 " " "	1738
S E $\frac{1}{4}$ N W $\frac{1}{4}$	33 " " "	1287

These lands are embraced in a supplemental list D of swamp selections, which was made and transmitted to this office after the townships in which they are situate were resurveyed, and in reference to which a letter, dated June 18, 1864, was transmitted to your office, and which contains the following:

After the resurveys were made, new selections of swamp lands were also made and transmitted to this office, but before these new selections were received the office had *approved* and *patented* to the State, most of the selections for the same townships under the old surveys. \* \* \*

The "supplemental list D," to which you refer, was made from the *resurveys*, and was originally intended to abrogate or supersede the old list in the townships contained in said "supplemental list D," but inasmuch as the selections under the old surveys in that portion of the Detroit district had been acted upon and carried into patent, that course was found to be impracticable.

As this office cannot recognize two lists of swamp selections for the same townships, made from different and conflicting surveys, and having, as stated, acted upon *one*, we must of necessity ignore the other.

You will therefore consider the *original* list, made under the *old surveys*, a copy in part of which was sent you on 15th April last, as being the only list to govern you in the townships therein contained.

In view of the foregoing action of this office, the claim of the State under the swamp grant, to the lands in question, is held for rejection subject to appeal.

You will please notify the State authorities, and all others in interest, of the action of this office in the premises, and allow sixty days from the receipt of notice in which to file appeals, and at the expiration of that time report whether or not appeal has been taken, and withhold the lands from all further dispositions until otherwise instructed by this office.

Very respectfully,

J. A. WILLIAMSON,  
Commissioner.

Plaintiff's counsel then read from a duly certified copy from the General Land Office, the following, as

## EXHIBIT 26.

## No. 1—Grand River Land District.

F.	Parts of sections.	Sec.	Town north.	Range west.	Contents, acres.
F. E $\frac{1}{2}$ S W fr. $\frac{1}{4}$ .....	*	7	18	3	80.00
			*		*
Section.....		8	18	3	640.00
			*		*
S W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...		19	18	3	47.23
N W fr. $\frac{1}{4}$ S W fr. $\frac{1}{4}$ ...		"	"	"	47.28
S E $\frac{1}{4}$ S W fr. $\frac{1}{4}$ .....		"	"	"	40.00
S $\frac{1}{2}$ S E $\frac{1}{4}$ .....		20	"	"	80.00
			*		*
S W $\frac{1}{4}$ .....		21	18	3	160.00
			*		*
S $\frac{1}{2}$ .....		22	18	3	320.00
			*		*
N W $\frac{1}{4}$ .....		28	18	3	160.00
N $\frac{1}{2}$ .....		29	"	"	320.00
			*		*
N $\frac{1}{2}$ N E $\frac{1}{4}$ .....		35	18	3	80.00
			*		*

\* NOTE.—This selection in town 18 appears to be superseded by supplemental list No. 3.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *March 29, 1852.*

The above list of swamp lands in the Grand River land district, which has been made up in accordance with the instructions from the General Land Office, dated Nov. 21, 1850, embraces all the lands in said district, except such as may be found in townships which have been ordered to be resurveyed. The districts reported by Judge Burt and Hiram Burnham to be fraudulent are embraced in this list and marked "F."

The aggregate of unsold swamp lands (excluding thirteen townships situated near Grand Traverse bay), according to the  
39 above statement amounts to 1,249,114.73 acres, in which is included the unsurveyed portion of township 9 N, R 1 W, estimated at 4,680 acres.

CHARLES NOBLE,

*\* Surveyor General.*

U. S. LAND OFFICE, IONIA, MICH., *Feb. 12, '52.*

In the foregoing list, the descriptions marked sold, were sold prior to September 28th, 1850.

The descriptions sold since that date are marked giving date of sale—and noting the kind of payment at 10/—or \$1.25 per acre—

whether *cash* or warrants issued under act of Feb'y 11, 1847, or warrants issued under act Sept. 28, 1850.

The descriptions marked State, and heretofore selected by the State of Michigan under different laws of Congress.

I have been over with the list twice, have endeavored to be accurate, but have probably made some mistakes.

LOUIS S. LOVELL, *Reg.*

Hon. the surr. gen'l, Detroit, Michigan.

\*Rec'd Ap'l 12, 1852.

I certify that the foregoing list of swamp lands in the Grand River land district, Michigan, has been made out in conformity with instructions from the Commissioner of the General Land Office, dated Nov. 21, 1850, and his letter of Dec. 12, 1850, and that the location of the said swamp lands is determined by the rule laid down in said instructions of November 21.

CHARLES NOBLE,  
*Surveyor General.*

Surveyor general office, Detroit, March 29, 1852.

40 Also the following from the General Land Office as

### EXHIBIT 27.

#### *Swamp Lands.*

\*No. 4.

\* Approved Oct. 27, 1853.

No. 1.

A list of swamp and overflowed lands selected as inuring to the State of Michigan, under the provisions of the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Ionia, Michigan, viz:

† *Certified copies of within list transmitted to gov. & R. R., Jan'y 13, 1854.*

*Gov. request for patents dated Jan'y 31, 1854.*

*Supplemental list No. 2, rec'd Nov. 3, 1853, and all townships in this list embraced in same erased.*

*Approvals entered in tract books.*

\* Parts in small type in pencil in original.

† Part in italic in red ink in original.

Parts of sections.	Section.	Township.	Range.	Surveyed area.		Unsurveyed area.		Total area.	
				N	W	Acres.	Hdths.	Acres.	Hdths.
* E $\frac{1}{2}$ of S W fr'l $\frac{1}{4}$ .....	7	18	3	80.		*			
* Section .....	8	18	3	640.		*			
* S W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ ..	19	18	3	47.23					
* N W fr'l $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ ..	"	"	"	47.28					
* S E $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	"	"	"	40.					
* S $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	20	"	"	80.					
* S W $\frac{1}{4}$ .....	21	18	3	160.		*			
* S $\frac{1}{2}$ .....	22	18	3	320.		*			
* N W $\frac{1}{4}$ .....	28	18	3	160.		*			
* N $\frac{1}{2}$ .....	29	"	"	320.		*			
* N $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	35	18	3	80.					
F. N E fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ ..	1	19	3	39.44		*Selections in this township superseded by supplemental list No. 3.			
*Omit.									
* S $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	1	19	3	80.					
* S W $\frac{1}{4}$ .....	"	"	"	160.		*			
* S $\frac{1}{2}$ of N E fr'l $\frac{1}{4}$ .....	1	19	3	80.		*			
* S $\frac{1}{2}$ of N W fr'l $\frac{1}{4}$ .....	4	19	3	80.		*			
* N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40.		*			
* E $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	11	19	3	80.		*			
* S E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	26	19	3	40.					
* W $\frac{1}{4}$ of S. W $\frac{1}{4}$ .....	"	"	"	80.		*			
F. N E $\frac{1}{4}$ .....	17	20	3	160.		*Selections in this township superseded by supplemental list No. 3.			
*Omit.									
* W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	24	20	3	80.					
* N E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40.		*			
* S $\frac{1}{2}$ .....	27	20	3	320.		*			
* N $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	28	20	3	80.					
* S E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40.					
* N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40.					

\*Part in small type in pencil in original.  
Lines crossing the page are in pencil in original.

Parts of sections.	Section.	Township.	Range.		Surveyed area.	Unsurveyed area.		Total area.	
			N	W		Acres.	Hdths.	Acres.	Hdths.
42 † <i>Cheboygan dist.</i>									
E $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	12	28	3		80.				
E $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	"	"	"		80.				
				*					*
† <i>Cheboygan dist.</i>									*
S E $\frac{1}{4}$ .....	1	29	3		160.				*
				*					*
† <i>Cheboygan dist.</i>									*
E $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	2	28	4		80.				*
				*					*
W $\frac{1}{2}$ .....	14	28	4		320.				*
				*					*
† <i>Cheboygan dist.</i>									*
E $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	7	29	4		80.				*
W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	18	29	4		68.34				*
E $\frac{1}{2}$ of N W fr'l $\frac{1}{4}$ .....	"	"	"		80.00				*
				*					*
S E $\frac{1}{2}$ of N W fr'l $\frac{1}{4}$ .....	19	29	4		40.				*
				*					*
E $\frac{1}{2}$ of S W fr'l $\frac{1}{4}$ .....	19	29	4		80.				*
				*					*
E $\frac{1}{4}$ .....	30	29	4		320.00				*
				*					*
S W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ ..	30	29	4		35.14				*
E $\frac{1}{2}$ of S W fr'l $\frac{1}{4}$ .....	"	"	"		80.				*
				*					*
E $\frac{1}{2}$ of N W fr'l $\frac{1}{4}$ .....	31	29	4		80.				*
				*					*

\* Cheboygan not yet patented, March 7, '57. L. D. R'y.

GENERAL LAND OFFICE, *October 27th, 1853.*

Respectfully submitted for approval.

JOHN WILSON,  
*Commissioner.*

\* Part in small type in pencil in original.

† Part in italic in red ink in original.

43

DEPARTMENT OF THE INTERIOR, *October 27, 1853.*

The lands embraced in the foregoing list are hereby approved to the State of Michigan under the act of Congress app'd 28 September, 1850, subject to any valid legal claim that may exist thereto.

R. McCLELLAND, *Secretary.*

Plaintiff's counsel offered in evidence a certified copy from the State land office of supplemental list No. 3, Grand River district, bearing date May 12th, 1858, being surveyor general's list, and containing in township eighteen (18) north, of range three (3) west, several descriptions of land, among others the north half of the southwest quarter of section twenty-nine (29), but not the other descriptions in controversy; also the east half of the southwest quarter of section one (1) town eighteen (18) four (4) west, as Exhibit 28.

This exhibit was also withdrawn, as hereinafter stated, and is not printed in full.

Plaintiff's counsel then moved the court for leave to discontinue as to the following parcels: North half of southwest quarter, section twenty-nine (29), town eighteen (18) north, range three (3) west, and the east half of the southwest quarter of section ten (10), town eighteen (18) north, range four (4) west, and to withdraw Exhibits 13, 14 and 28, relating thereto, which motion was granted and so ordered.

Plaintiff's counsel then read in evidence the field-notes of surveys of sections 20, 21, 22, 28 & 35, of township 18 north, range 3 west, Michigan, from duly certified copies from the State land office of Michigan, as,

44

## EXHIBIT 30.

Township 18 north, range 3 west.

*Field-notes of U. S. Survey of Secs. 20, 21, & 22 from Corner of Secs. 22, 23, 26, & 27.*

Hemlock, 6 N, 22 E 15.

Do. 14 S, 67 W 42.

*East.* Random between secs. 22 & 27.

15.00 Stream 40, course N E.

15.50 Leave swamp.

46.00 Enter do.

48.50 Stream 40, course S E.

76.00 Leave swamp.

80.00 Intersect N & S line 16 north of post. Land—level, 3d rate. Timber—hemlock, pine, etc.

*West.* Corrected between secs. 22 & 27.

2.14 Sugar, 20 in.

36.20 Hemlock, 10 in.

40.00 Set qr. sec. post.

Sugar, 14 N, 42 W, 04.

Hemlock, 10 S, 42 E, 32.

46.30 Hemlock, 18 in.

60.06 Do. 10 in.

80.00 Section corner.

*East.* Random between secs. 21 & 28.

20.00 Stream 20, course S E.

35.50 Leave swamp.

48.00 Enter swamp.

80.09 Enter sect. N & S line at post.

Land—level, 3d rate. Timber—hemlock, pine, maple, B. ash, &c.

45

*West.* Between secs. 21 & 28.

11.08 Cedar, 10 in.



- 32.17 Hemlock, 10 in.  
 40.04 Maple, 18 in. for qr. sec. post.  
 46.17 Cedar, 12 in.  
 72.68 Do. 16 in.  
 80.09 Section corner.
- East.* Random, between secs. 20 & 29.  
 23.00 Enter swamp.  
 80.03 Intersect N & S line, 8 north of post. Land and timber same.
- West.* Corrected between secs. 20 & 29.  
 4.18 Cedar, 10 in.  
 32.66 Do. 15 in.  
 40.01 Hemlock, 18 for qr. sec. post.  
 46.27 Hemlock, 6 in.  
 71.18 W. pine, 26 in.  
 80.03 Section corner.
- North.* Between secs. 19 & 20.  
 12.15 Beech, 8 in.  
 34.68 Do. 15 in.  
 40.00 Set qr. sec. post.  
           Sugar, 10 N, 11 W, 27.  
           Beech, 6 S, 27 E, 38.  
 46.61 Hemlock, 18 in.  
 71.27 Do. 24 in.  
 80.00 Set post corner sections 17, 18, 19 & 20.  
           Hemlock, 10 N, 36 E, 19.  
           Do. 20 S, 61 W, 03.  
 Land—rolling, 2d rate. Timber—hemlock, beech, maple, sugar & pine.
- 46
- North.* Between secs. 22 & 23.  
 9.94 Elm, 30 in.  
 34.59 B. oak, 24 in.  
 40.00 Set. qr. sec. post.  
           Hemlock, 16 S, 60 E, 25.  
           Do. 6 N, 60 W, 07.  
 51.58 W. pine, 18 in.  
 68.18 Do. 16 in.  
 80.00 Set post corner, sections 14, 15, 22 & 23.  
           Beech, 8 S, 8 E, 15.  
           Do. 6 N, 55 W, 20.  
 Land—rolling, poor, 2d rate. Timber—pine, hemlock, beech, B. oak, elm, maple & sugar.
- East.* Random, between sections 15 & 22.  
 60.00 Enter swamp.  
 75.00 Left swamp.  
 79.86 Intersect N & S line at post.  
 Land—except swamp, rolling, 2d rate. Timber—hemlock, beech, pine, sugar, cedar, B. ash, elm, maple, &c.

*West.* Between sections 15 & 22.

- 4.35 W. pine, 16 in.  
 36.04 Maple, 10 in.  
 39.93 Set qr. sec. post.  
                     Hemlock, 12 S, 78 W, 24.  
                     Do. 16 N, 78 E, 19.  
 41.35 Hemlock, 14 in.  
 76.13 Do. 15 in.  
 79.86 Section corner.

*East.* Random, between secs. 16 & 21.

- 31.00 Enter swamp.  
 70.00 Leave do.  
 79.82 Intersect N & S line 22 N of post. Land—level, 3d rate.  
 Timber—hemlock, cedar, maple, B. ash, elm, etc.

47

*West.* Corrected between secs. 16 & 21.

- 44.26 Maple, 15 in.  
 33.17 Cedar, 8 in.  
 39.91 Set qr. sec. post.  
                     Cedar, 10 N, 16 E, 37.  
                     Do. 18 S, 51 W, 08.  
 49.27 Hemlock, 10 in.  
 76.25 Do. 8 in.  
 79.82 Section corner.

*East.* Random, between sections 17 and 20.

- 21.00 Stream 20, course S E.  
 80.24 Intersect N & S line, 16 N of post. Land and timber same  
                     as last mile.

*West.* Corrected between sections 17 & 20.

- 2.18 Beech, 15 in.  
 31.81 Do. 8 in.  
 40.12 Set qr. sec. post.  
                     Maple, 15 S, 18 W, 06.  
                     Hemlock, 10 N, 28 E, 07.  
 41.13 Beech, 15 in.  
 78.10 Do. 11 in.  
 80.24 Section corner.

*North.* Between sections 21 & 22.

- 3.35 W. pine, 36 in.  
 16.00 Stream 6, course S E.  
 28.00 Leave swamp.  
 32.00 Beech, 18 in.  
 40.00 Set qr. sec. post.  
                     Beech, 12 N, 18 W, 15.  
                     Do. 10 S, 35 E, 35.  
 46.10 Lynn, 12 in.  
 65.20 Hemlock, 14.

48

80.00 Set post corner sections 15, 16, 21 &amp; 22.

Hemlock, 10 S, 44 W, 17.

Beech, 18 N, 62 E, 27.

Land—mostly rolling, 2d rate. Timber—hemlock, beech,  
pine, lynn & sugar.*North.* Between sections 20 & 21.

2.13 Hemlock, 6 in.

21.00 Leave swamp.

36.41 B. ash, 18.

39.00 Stream 20, course S E.

40.00 Set qr. sec. post.

Maple, 18 N, 27 E, 61.

Do. 13 S, 08 W, 14.

46.27 Beach, 15 in.

76.19 Do. 20 in.

80.00 Set post, corner sections 16, 17, 20 &amp; 21.

Hemlock, 12 N, 78 E, 22.

Do. 15 S, 78 W, 41.

Land—level, poor, 2d rate. Timber—hemlock, pine, maple,  
B. ash, beech & sugar.*Field-notes of U. S. Survey of Sections 28 & 29 from Corner of Sections  
28 & 29, 32 & 33.*

Cedar, 12 S, 20 E, 08.

Elm, 14 N, 20 E, 09.

*East.* Random, between sections 29 & 32.

12.00 Stream 30, course S E.

32.00 Do. " N E.

80.16 Intersect N &amp; S line 20, S of post.

Land—level, 3d rate. Timber—hemlock, pine, cedar, B.  
ash, elm, maple, aspen, &c.

49

*West.* Corrected between secs. 29 & 32.

4.18 Hemlock, 12 in.

27.13 Do. 18 in.

40.08 Set qr. sec. post.

Hemlock, 18 south, 316.

47.28 Hemlock, 18 in.

71.21 Hemlock, 15 in.

80.16 Section corner.

*North.* Between sections 29 & 30.

7.12 Hemlock.

13.00 Stream 30, course S E.

14.00 Enter windfall, course N E.

40.00 Set qr. sec. post.

Aspen, 7 S, 38 W, 11.

Do. 8 N, 81 E, 14.

- 45.00 Enter swamp.  
 47.13 Hemlock, 6 in.  
 68.17 Do. 20 in.  
 77.00 Leave swamp.  
 80.00 Set post corner of sections 19, 20, 29 & 30.

Hemlock, 16 S, 27 E, 11.

W. pine, 22 N, 18 W, 41.

Land—level, 3d rate. Timber—hemlock, cedar, pine, B.  
 ash, &c. March 10th.

*East.* Random between sections 28 & 33.

- 80.00 Intersect N & S line, 12 N of post. Land—rolling, poor,  
 2d rate. Timber—hemlock, pine, beech, maple, &c.

*West.* Corrected between sections 28 & 33.

11.67 Maple, 10.

34.46 W. pine, 24.

40.00 Set qr. sec. post.

Hemlock, 12 N, 48 W, 30.

Do. 14 S, 02 E, 25.

50

43.50 W. pine, 20.

67.46 Do. 18.

80.00 Section corner.

*North.* Between sections 28 & 29.

25.00 Stream 30, course N E.

26.18 Hemlock, 16.

30.00 Enter swamp.

37.62 Cedar, 10.

40.00 Set qr. sec. post.

Cedar, 8 N, 76 W, 13.

Do. 15 S, 16 E, 27.

46.13 Hemlock, 6.

71.27 Do. 8.

80.00 Set post corner of secs. 20, 21, 28 &amp; 29.

Hemlock, 16 S, 76 W, 28.

Cedar, 11 N, 18 W, 11.

Land—level, 3d rate. Timber—hemlock, cedar, B. ash,  
 aspen, pine, beech & sugar. March 8th.

*North.* Between sections 27 & 28.

20.61 Beech, 16.

37.28 Do. 20.

40.00 Set qr. sec. post.

Hemlock, 18 N, 66 E, 17.

Do. 8 S, 15 W, 09.

46.31 Maple, 15.

58.90 Enter swamp.

68.00 Stream 35, course N E.

80.00 Set corner post of secs. 21, 22, 27 & 28.

Hemlock, 12 N, 62 E, 15.

Do. 17 S, 28 W, 46.

Land—level, 3d rate. Timber—hemlock, pine, maple, beech, &c.

51

*East.* Random, between sections 21 & 28.

20.00 Stream 20, course S E.

35.50 Leave swamp.

48.00 Enter swamp.

80.09 Intersect N & S line at post. Land—level, 3d rate. Timber—hemlock, pine, maple, B. ash, &c.

*West.* Between sections 21 and 28.

11.08 Cedar, 10.

32.17 Hemlock, 10.

40.04 Maple, 18 for qr. sec. post.

46.17 Cedar, 12.

72.68 Do. 16.

80.09 Section corner.

*East.* Random, between sections 20 & 29.

23.00 Enter swamp.

80.03 Intersect N & S line, 8 N of post. Land and timber same.

*West.* Corrected between sections 20 & 29.

4.18 Cedar, 10.

32.66 Do. 15.

40.01 Hemlock, 18 for qr. section post.

46.27 Hemlock, 6.

71.18 W. pine, 26.

80.03 Section corner.

*Field-notes of Section 35, from Corner of Sections 35 & 36.*

Beech, 18 N, 43 W, 18.

Do. 10 N, 42 E, 30.

*East.* On south side of section 35.

40.00 Set qr. sec. post.

80.00 Set temporary post corner of secs. 35 & 36. Land—rolling, 2d rate. Timber—hemlock, pine, beech, elm, maple, &c.

52

*West.* Corrected on the south side of section 35.

8.06 Pine, 48.

31.31 Do. 20.

40.00 Set qr. sec. post.

Beech, 11 N, 80 E, 04.

Maple, 13 N, 51 W, 21.

- 48.06 Pine, 20.  
 66.75 Do. 22.  
 80.00 Set post corner of secs. 34 & 35.  
                     Aspen, 14 N, 23 E, 13.  
                     Do. 10 N, 28 W, 15.

*North.* Between sections 34 & 35.

- 6.95 W. pine, 18.  
 35.02 Do. 20.  
 40.00 Set qr. sec. post.  
                     Beech, 14 S, 10 W, 07.  
                     W. pine, 16 N, 06 E, 04.  
 43.64 Hemlock, 12.  
 60.94 W. pine, 20.  
 80.00 Set post corner of secs. 26, 27, 34 & 35.  
                     Beech, 12 N, 65 E, 15.  
                     W. pine, 18 S, 65 W, 11.  
                     Land—rolling, 2d rate. Timber—hemlock, pine, beech,  
                     sugar, &c.

*North.* Between sections 35 & 36.

- 6.03 Sugar, 14.  
 28.00 Beech, 12.  
 40.00 Set qr. sec. post.  
                     Hemlock, 14 N, 7 E, 22.  
                     Do. 10 S, 68 W, 05.

- 42.24 Hemlock, 10.  
 50.00 Enter swamp.  
 57.00 Stream 40, course S E.

53

- 58.00 Leave swamp.  
 72.10 Hemlock, 18.  
 80.00 Set post, corner of sections 25, 26, 35 & 36.  
                     Hemlock, 14 N, 79 E, 09.  
                     Do. 20 S, 26 W, 60.  
                     Land—except swamp, rolling, 2d rate. Timber—beech,  
                     hemlock, pine, cedar, maple, sugar.

*East.* Random between sections 26 & 35.

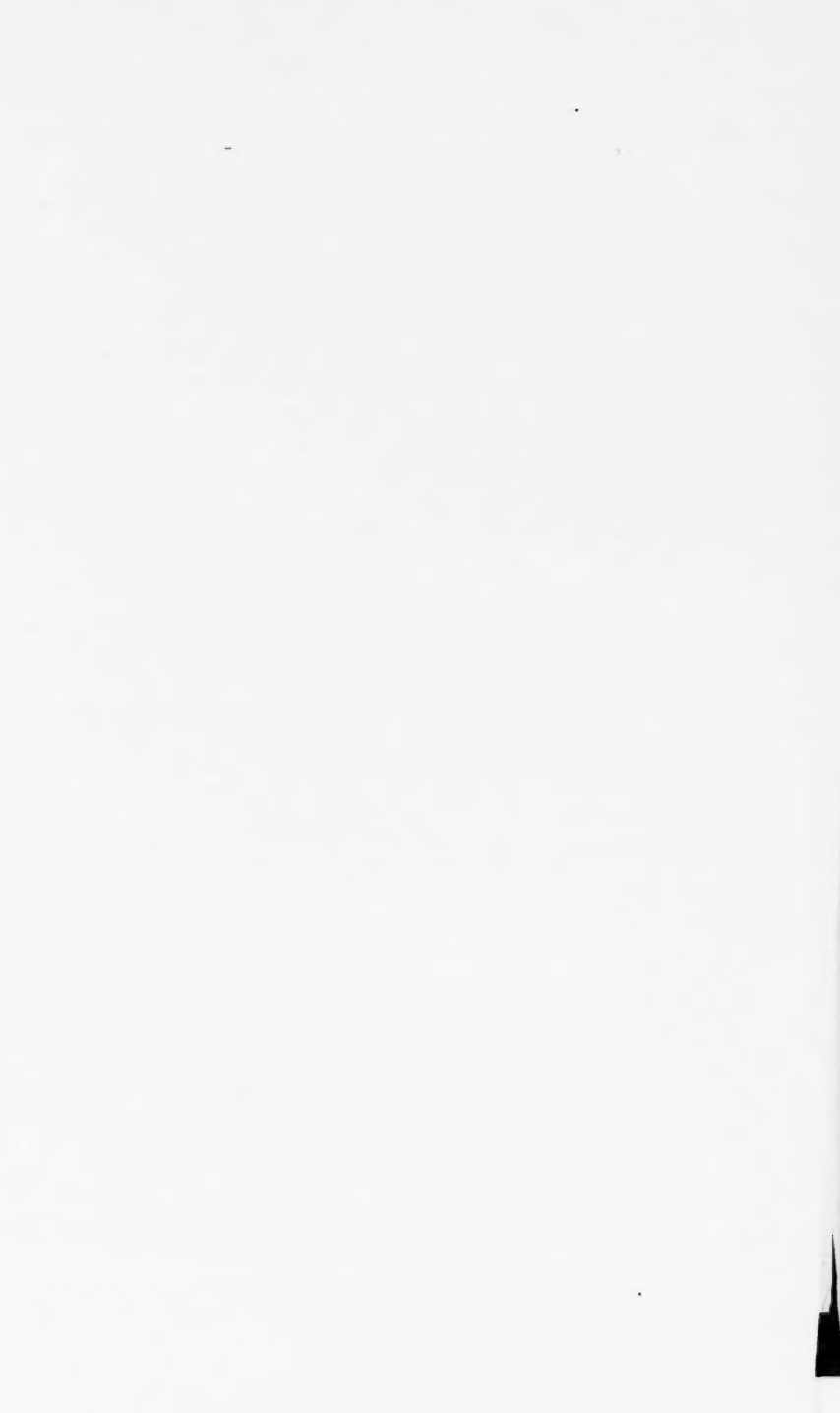
- 30.00 Enter swamp.  
 58.00 Stream 40, course S E.  
 65.00 Leave swamp.  
 79.72 Intersect N S line, 20 N of post. Land—level, 3d rate.  
                     Timber—hemlock, pine, maple, cedar, B. ash.

*West.* Corrected between sections 26 & 35.

- 4.28 Hemlock, 12.  
 21.35 Do. 14.  
 39.86 Set qr. sec. post.  
                     Cedar, 6 N, 47 E, 09.  
                     Do. 6 S, 76 W, 14.

- 41.08 W. pine, 20.  
 79.21 Section corner.

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED



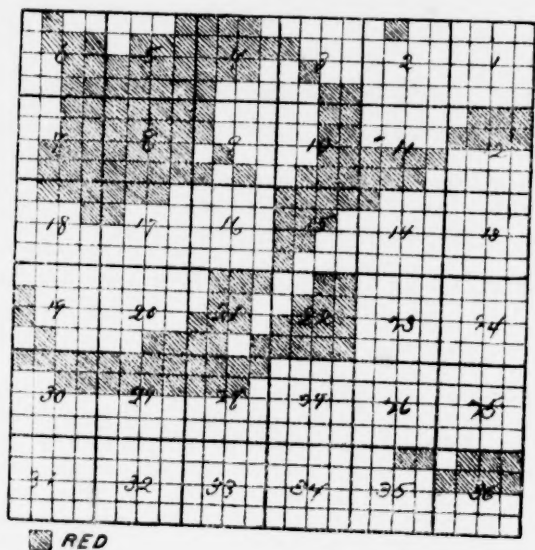


No. 33. }  
M. L. & L. Geo. } p. 55a  
Aust.

MAP OF THE IONIA LAND DISTRICT, MICHIGAN.

The tracts colored red and green have been selected as swamp lands enuring to the State of Michigan under the act of 28th September, 1850. Those colored green have been sold and located since the passage of said act.

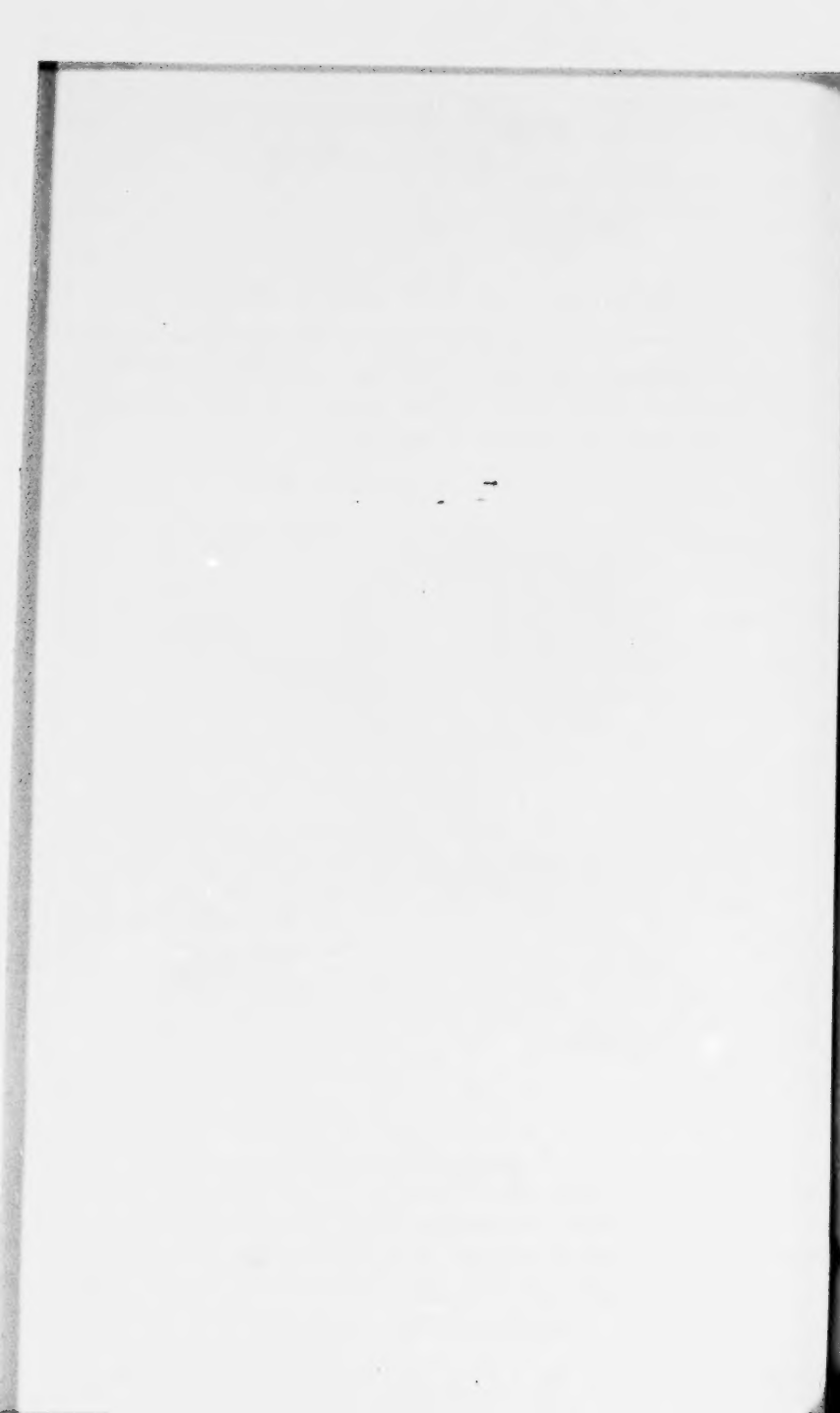
## TOWN 18 NORTH, RANGE 3 WEST.



GENERAL LAND OFFICE, /  
MARCH 9th, 1854. (

This diagram having been carefully compared with lists numbers 1, 2, 3 & 4 of swamp and overflowed lands granted to the State of Michigan under the act of Congress approved 28th September, 1850, in the district of lands subject to sale at Ionia, Michigan, certified copies of which lists were transmitted to the Governor of said State on the 13th, 16th and 18th January, 1854, and found to be correct, is hereby approved.

JOHN WILSON,  
*Commissioner.*



I hereby certify that in pursuance of a contract with E. S. Haines, surveyor general of the United States, for the States of Ohio, Indiana and Michigan, this 20th day of July, 1838, and in strict conformity to the laws of the United States and the instructions of said surveyor general, I have surveyed and subdivided into sections, township 18 north, range No. 3 west, in the State of Michigan, and I do further certify that the foregoing are the true and original field-notes of said survey, executed as aforesaid.

Certified this 13th day of March, 1839.

HENRY NICHOLSON, *D. Surveyor.*

54 Plaintiff's counsel then put in evidence, from the records of the State land office, the plat of survey of township 18 north, of range 3 west, of Michigan, and the same was marked

### EXHIBIT 31.

(See map opposite.)

(Here follows map marked page 54a.)

RICHARD KERNS, a witness produced and sworn on the part of the plaintiff, testified as follows:

I reside at Lansing, Michigan, and hold the position of chief clerk in the State land department. I have with me from the State land office a map of swamp lands approved to the State of Michigan, in the Ionia land district.

Witness produced map, and the same was put in evidence by plaintiff's counsel as

### EXHIBIT 32.

(This map shows lands approved in a large number of towns in Ionia land district, starting from the intersection of the base line and the principal meridian of Michigan, running thence north to the line between townships 10 & 11 north, thence west to the line between ranges 2 & 3 W, thence N on said line to the straits of Mackinaw, and from the said intersection of the base line and principal meridian west to the range line between ranges 6 & 7, thence north to township line between townships 3 & 4 N, thence W on said line to Lake Michigan, including all between these lines and the lake, and so far as relates to the township in question, together with the certificates attached, is as follows:)

55 (See map opposite.)

(Here follows map marked page 55a.)

### Cross-examination:

There are other maps on file in our office in relation to swamp lands that have been transmitted to our department from time to time from Washington.

OSCAR PALMER, a witness produced, sworn and examined on the part of the plaintiff, testified as follows :

I reside in Grayling. The U. S. land office is located there. I am the register of the U. S. land office there, and have held that position a little over two years. I have with me in my possession the tract book, in use in that office, embracing Ionia district 1, and town 18 N, 3 W.

Q. Will you state whether or not the southeast quarter of the southeast quarter of 20, 18 N, 3 W ; the N W quarter of the S W quarter of section 21, 18, 3 ; the N W of the S E of 22, 18, 3 ; the N W of the N W of 28, 18, 4 ; the north half of the N E quarter of 35, 18, 3 ; whether they were vacant and unappropriated and not interfered with by actual settlements under the laws of the United States on the 3d day of March, 1857.

A. The tract book does not show any entry of that date.

Q. Does it show any appropriation of those lands to any purposes other than swamp lands ?

A. No, sir.

Q. Does it show any settlement under the laws of the United States ?

A. No, sir.

Q. Lands which do not appear upon that plat book, will you state how they are regarded in the land office.

A. They are regarded as vacant land.

COURT : I understand your question to be lands not appearing on this book are regarded as vacant.

MR. CHAMPLIN : Yes, sir ; lands not appearing on this book are regarded as vacant.

56 MR. POND : Do I understand that nothing appears on that book ?

A. It appears that the descriptions read have been at some time selected as swamp lands and canceled.

Q. Selected under what list ?

A. List No. 1.

Q. And there appears to be a red mark there through it ?

A. Yes, sir.

Q. It does not show by what authority ?

A. No, sir.

Cross-examination :

Q. Is there nothing on that book to show those lands were in fact withdrawn from the market in 1850 ?

A. There is a record on this book of the withdrawal ; simply a cancellation by a cross—red ink. The plat book is another record from my office ; it shows the original and resurvey, the original plats being canceled. In regard to the disposition of the land, the register is entirely governed by orders from Washington from the General Land Office, and if an order comes that withdraws from market a large quantity of land, there should be a mark made on both tract book and plat book.

Q. Do you know whether there is?

A. I have never found any memorandum on the tract book except in a single instance in the old Genesee office. I have lived in this State fifty years. I do not remember, in 1856, when the land grants were made to the railroads. I was fifteen years old, and not much interested then.

Q. In order that you may see just what I want, I think your honor will take judicial notice of the fact, and it appears in the public documents. That record shows that in 1856 there were large withdrawals in Michigan of public lands within the probable limits of those roads to which grants had been made in June, 1856, by act of Congress. Now, what is there on your records to show those withdrawals?

A. Absolutely nothing.

57 Q. What is there on your files?

A. If I answered that directly, I should say absolutely nothing that I have been able to find, excepting memoranda of previous registers, indicating to me that there was such withdrawal, but I have been unable in the office to find the official letters withdrawing any of the lands. The condition of the records and files in my office is execrable. There is neither beginning or end to them. There are a good many that should be there that I cannot find—a good many that should be there to make the connection. I have no official knowledge in regard to these official withdrawals. I do not know anything about their limits.

#### Redirect examination :

Q. Mr. Weber asked you if there was anything to indicate any reference to your plat to the condition of these lands, and you said that the plat book showed there had been a resurvey. Will you open to these towns on your plat book; have you 18, 3, of the original survey?

A. Yes, sir. The indication that there has been a resurvey is that on the original plat, written across the face is the word "Resurveyed," and followed by the resurveyed plat; this plat shows these lands were offered for public sale June 15th, 1840, by President's proclamation. On the original plat there are indications or marks that indicate that by original survey of the S E quarter of the S E quarter of 20, 18, 3, was swamp, and the same with reference to the N W of the southwest of 21, 18, 3; the N W of the S E of 22, 18, 3; the N W of the N W of 28, 18, 3; and the north half of the northeast quarter of 35, 18, 3.

Q. Now, in your office, you say it is marked as swamp. What is the indication, as understood by the land officers as indicating the swamp lands on those plats?

A. By direction of the Commissioner of the General Land Office, all swamp lands are marked S on the plat by the register of the local office.

Q. Does that S appear here?

58 A. Yes, sir, on the descriptions read.

Q. Is it in pencil or what?

A. First in pencil and then in red ink. (Witness turns to the plat of resurvey and testified :) On this map of the resurvey is indicated that it was received at the land office June 3d, 1858, signed John C. Blanchard, register. The date of the surveyor general's certificate on this map is May 12th, 1858, and is the marked resurvey at the top.

Recross-examination:

I came into possession of the books November 2d, two years ago.

Q. Then what you say in relation to these matters is all from the record?

A. From the record and not from personal knowledge.

Q. Now your tract book that you first referred to, I wish you would take the S E quarter of the S E quarter of section 20, 18, 3, and read to us just what appears on your tract book with reference to that description.

A. The first entry includes the entire south half of the southeast quarter of the section, 80 acres swamp land under act of the 28th of September, 1850, approved. See list No. 1.

Q. What condition is that in?

A. That is cancelled by a red line drawn through the entire entry.

Q. Any further entry upon your tract book with relation to the southeast of the southeast of section 20?

A. The southeast of the southeast of section 20, 40 acres, at \$9.05, \$362, purchased by William A. Rust. Register's number 20833, November 12, 1869. Number of the certificate of purchase 20833, patented to William A. Rust, May 10, 1870, recorded in volume 38, on page 138. I have now given you from that tract book all that appears with reference to the southeast of the southeast.

59 Q. Give us all that appears in the southeast quarter of the southwest quarter of section 21?

A. The entire southwest quarter of section 21, 160 acres. Swamp-land act September 23d, 1850. Approved. See list No. 1. Canceled in the same way as the other.

Q. And then the northwest of the southwest?

A. The northwest of southwest. The entire southwest quarter, 21, 18, 3, 160 acres. Located with agricultural college scrip, 603, by Wellington R. Burt, October 16, 1866. Canceled. See Commissioner's letter, July 30, 1869. And further, the northwest of southwest of section 21, 18, 3, 40 acres, at \$10 an acre, \$400.00. William A. Rust. Number of register's return, 20836. November 12, 1869. Number of certificate of purchase, 20836. Patented to William A. Rust, May 10, 1870. Recorded volume 38, page 141. This is all that appears on the tract books with reference to the parcels in section 20, 18, 3, and 21, 18, 3. With reference to the northwest of southeast of section 22, it shows the entire south half of section 22, 18, 3, is 360 acres placed as swamp land under the act of September

28, 1850, approved. See list No. 1. Canceled the same as the others with a red line. And the entire southeast quarter, 160 acres. Located by agricultural college scrip, 691, by Wellington R. Burt, October 16, 1866. Canceled. Commissioner's letter, July 30, 1869. And the next is northwest of southeast quarter, 40 acres, at \$8.50 an acre, \$340.00. William A. Rust. Number of register's return, 20871. November 13, 1869. Number of certificate of purchase, 20871. Patented to William A. Rust, May 10, 1870. Patent recorded in volume 38, page 176. This is all that appears on the tract book with reference to that description of land. With reference to the northwest of northwest of section 28, it shows the entire northwest quarter is included in the swamp-land list exactly the same as the others, and canceled the same. The northwest of the northwest quarter of other lands is located with military bounty land, 55, 77427. By Wellington R. Burt, October 16, 1866.

60 Canceled. Commissioner of Land Office, July 30, 1869. And the northwest of the northwest, 40 acres, \$12.30, \$492.00. Purchased by William A. Rust. Number of register's return, 20872. November 13, 1869. Number of certificate of purchase, 20872. Patented to William A. Rust, May 10, 1870. Patent recorded in volume 38, page 177. With reference to the north half of the northeast quarter of section 35, it shows the north half of the northeast of section 35, 18, 3, is included in the same swamp-land list, and canceled the same. The north half of northeast quarter, 80 acres. Cash entry at \$1.25 an acre, \$100.00. Purchased by Addison P. Brewer. Number of register's return, 19223. October 31, 1866. No record of patent nor certificate of purchase.

Q. Is there no record of cancellation of Brewer's entry?

A. No, sir; no record of issue of certificate of purchase. There is a check crossed in pencil mark in the column for the number of receipt. That indicates nothing to me.

Q. Is there anything on that book that shows when the cancellation of the swamp-land selection was made?

A. No, sir.

Q. I mean the cancellation of the entry?

A. No, sir; there is no record of it. I have in my office a sales book, but haven't it here. Wm. A. Rust made the purchase referred to at a public sale. The amounts which I stated in giving your sales to Wm. A. Rust—the per-acre statement and the total statement—indicate what he paid in cash to the United States receiver at that time on the purchase of the land described. With reference to that plat book, I said that the plat of the original survey has written upon it the word "Resurveyed." It was in that condition when it came to my hands. The new plat which is marked "Resurveyed" took the place of this. This resurvey plat is certified to May 12, 1858, and in our office is recognized as the existing plat, and the one now in force. No other plat recognized in the office as in force. There are indications on that plat of resurvey of State swamp lands, indicated in the same manner  
61 that they are upon the plat of the original survey. And upon the plat of the resurvey some of the same pieces

of land are marked with the letters indicating swamp land that are marked upon the plat of the original survey. According to the plat of resurvey and the marks indicating the State swamp lands, the southeast of the southeast quarter of section 20 is not State swamp land, and the northwest quarter of the southwest quarter of section 21 is not. The northwest of southeast of 22 is not. The northwest of northwest of section 28 is not, and the north half of the northeast quarter of section 35 is not.

Redirect examination by Mr. CHAMPLIN :

Q. Will you turn to the map of the old survey and see whether there are any indications on that map of any one entering the land?

A. Yes, sir; a good many entries.

Q. Made upon the basis of that old map?

A. Yes, sir.

Q. Will you look at your tract book and state whether or not the Government sold large quantities of land in every section in 1853, prior to the resurvey?

A. Yes, sir; there are lands sold.

Q. In every section in that town?

A. Yes, sir.

Q. You gentlemen have undertaken to show the Government only recognized that plat over there. They certainly recognized this plat until 1853. I want to show that during this time, prior to that time, they recognized this old survey.

Objected to as immaterial.

Mr. CHAMPLIN: I think it is material in showing how the Land Department dealt with this land—how they regarded it; how they regarded these surveys on this map.

Court: I think I will have to exclude that.

To which ruling plaintiffs took exception.

Q. I will ask you if it was not a fact that in this same town, and some of these sections, land was sold. Take 20, 22, 21, 28  
62 and 35, and see if they were not sold on the same section before the resurvey.

Objected to as immaterial.

Mr. CHAMPLIN: I propose to show that the Land Department of the Government recognized the validity of the old survey and the old maps by selling Government land. There never existed in these townships any controversy, and upon these sections in controversy, up to March, 1857.

Court: I don't understand this witness to testify that these lands sold to Rust and others were sold according to the old survey.

Mr. CHAMPLIN: It would be according to their survey. There would not be any difference in the description. I will ask the witness if there is any difference in the two surveys.

A. No, there is not.



Mr. STARK: Do you propose in that offer to prove that since the making of the resurvey the Government has sold lands according to the old plat?

Mr. CHAMPLIN: My question is limited down to March 3, 1857; that is, prior to this map. I may state that the further purpose is to show that it was a recognized Government survey, and in actual use by the Government up to and including March 3, 1857.

Defendant's objection was sustained by the court, to which ruling plaintiff excepted.

Recross-examination:

Q. Do not the entries upon the face of the resurveys show that the lands were sold by that, and that that plat was the plat recognized by the Government from the time of the resurvey down?

A. Certainly.

Q. Does it now show upon its face sales made by the Government prior to the time you took possession?

A. Yes, sir.

Q. So that records of your office would show all the plats of the resurvey?

A. Only from June 3, 1858, the date it was received at the land office. It was certified May 12, 1858. The plat of resurvey shows it was resurveyed in 1856 by Geo. H. Cannon, deputy surveyor. The month is not given.

Plaintiff's counsel then read in evidence the following patent, which had been duly recorded as

EXHIBIT 33.

No. 42323.

(Copy.)

In the name of the people of the State of Michigan.

To all to whom these presents shall come, Greeting:

*Whereas*, Edward W. Sparrow, of the county of Ingham, on the tenth day of October, in the year one thousand eight hundred and eighty-seven, purchased from the State of Michigan the lands hereinafter described, pursuant to the laws of said State, then in force, and in such cases made and provided.

*And whereas*, the said Edward W. Sparrow has paid for said lands, by the entire completion of the work contemplated by act No. 130 of the session laws of 1883, as fully appears by the certificate of the proper officer, now on file in the office of secretary of state of the State of Michigan, being certificate No. 22249 for swamp land.

*Now, therefore*, I, Cyrus G. Luce, governor of said State, in consideration of the premises, and by virtue of the power and authority vested in me by the laws of the said State, in such cases made and provided, do issue this patent in the name and by the authority of the people of the State of Michigan, hereby granting and confirm-

ing unto the said Edward W. Sparrow, and to his heirs and assigns forever, the following piece or parcel of land, situate in the State aforesaid, to wit, the southwest quarter of the northwest quarter of section three (3); the west half of the northeast quarter, and the northeast quarter of the southwest quarter of section seven (7); the southwest quarter of the southwest quarter of section eight (8); the southwest fractional quarter of the northwest quarter; the northwest fractional quarter of the southwest quarter, and the southeast quarter of the southwest quarter of section nineteen (19); the south half of the southeast quarter of section twenty (20); and the northwest quarter of the southwest quarter of section twenty-one (21), all in town eighteen (18) north, range three (3) west, containing four hundred and fifty-four and fifty-one one-hundredths (454.51) acres, according to the returns of the surveyor general, to have and to hold the above described and granted premises unto the said Edward W. Sparrow, and to his heirs and assigns, to his and their sole and only proper use, benefit and behoof, forever, as provided by the laws of said State, against the lawful claim or claims of all persons whatsoever.

*In testimony whereof*, I have caused these letters to be made patent, and the great seal of the State to be hereunto affixed.

Given under my hand, at Lansing, this fourteenth day of October, in the year of our Lord one thousand eight hundred [SEAL.] and eighty-seven, and of the Independence of the United States of America the one hundred and twelfth.

C. G. LUCE,

By the governor :

F. B. EGAN,

*Dp. Secretary of State.*

Recorded Book 67, page 427.

65 Plaintiff's counsel then read the following patent, which had been duly recorded as

#### EXHIBIT 34.

No. 42324.

(Copy.)

In the name of the people of the State of Michigan.

To all to whom these presents shall come, Greeting :

*Whereas*, Edward W. Sparrow, of the county of Ingham, on the tenth day of October, in the year one thousand eight hundred and eighty-seven, purchased from the State of Michigan the lands hereinafter described, pursuant to the laws of said State, then in force, and in such cases made and provided.

*And whereas*, the said Edward W. Sparrow has paid for said lands by the entire completion of the work contemplated by act No. 130 of the session laws of 1883, as fully appears by the certificate of the proper officer, now on file in the office of secretary of state of the State of Michigan, being certificate No. 22249 for swamp land :

Now, therefore, I, Cyrus G. Luce, governor of said State, in consideration of the premises, and by virtue of the power and authority vested in me by the laws of the said State, in such cases made and provided, do issue this patent in the name and by the authority of the people of the State of Michigan, hereby granting and confirming unto the said Edward W. Sparrow and to his heirs and assigns forever, the following piece or parcel of land, situate in the State aforesaid, to wit: The north half of the southeast quarter, and the southeast quarter of the southeast quarter of section twenty-two (22); the northwest quarter of the northwest quarter of section twenty-eight (28); the southwest quarter of the northeast quarter, the northwest quarter of the northwest quarter, and the north half of the southwest quarter of section twenty-nine (29); the north half of the northeast quarter of section thirty-five (35), town 66 eighteen (18) north, range three (3) west; the east half of the southwest quarter of section one (1), and the southeast quarter of the southwest quarter of section eleven (11), town eighteen (18) north, range four (4) west, containing five hundred and twenty (520) acres, according to the returns of the surveyor general, to have and to hold the above described and granted premises unto the said Edward W. Sparrow and to his heirs and assigns, to his and their sole and only proper use, benefit and behoof, forever, as provided by the laws of said State, against the lawful claim or claims of all persons whatsoever.

*In testimony whereof*, I have caused these letters to be made patent, and the great seal of the State to be hereunto affixed.

Given under my hand, at Lansing, this fourteenth day of October, in the year of our Lord one thousand eight hundred [SEAL.] and eighty-seven, and of the Independence of the United States of America the one hundred and twelfth.

C. G. LUCE.

By the governor:

F. B. EGAN,

*Dep. Secretary of State.*

Recorded, Book 67, page 428.

And a deed from said Edward W. Sparrow to plaintiff for the lands in controversy, which had been duly recorded

### EXHIBIT 35.

(Copy.)

*This indenture*, made this thirty-first day of October, in the year of our Lord one thousand eight hundred and eighty-seven, between Edward W. Sparrow (bachelor) of Lansing, Ingham county, Michigan, of the first part, and Michigan Land and Lumber Company (Limited), a copartnership association organized under the laws of the State of Michigan, of the second part.

67 *Witnesseth*, that the said party of the first part, for and in consideration of the sum of eight thousand seven hundred

and seventy dollars to him in hand paid, by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold, remised, released, aliened and confirmed, and by these presents *do* grant, bargain, sell, remise, alien and confirm unto the party of the second part, and to its successors and assigns forever, all those certain pieces or parcels of land, situate, lying and being in the county of Clare, State of Michigan, known and described as follows, to wit: The southwest quarter of the northwest quarter section three (3); the west half of northeast quarter, the northeast quarter of southwest quarter section seven (7); the southwest quarter of southwest quarter section eight (8); the southwest fractional quarter of northwest quarter, the northwest fractional quarter of southwest quarter, the southeast quarter of southwest quarter section nineteen (19); the south half of southeast quarter section twenty (20); the northwest quarter of southwest quarter section twenty-one (21); the north half of southeast quarter, the southeast quarter of southeast quarter section twenty-two (22); the northwest quarter of northwest — section twenty-eight (28); the southwest quarter of northeast quarter, the northwest quarter of northwest quarter, the north half of southwest quarter section twenty-nine (29); the north half of northeast quarter section thirty-five (35), town eighteen (18) north, of range three (3) west; the east half of southwest quarter section one (1); the southeast quarter of southwest quarter section eleven (11), town eighteen (18) north, range four (4) west, containing nine hundred seventy-four and fifty-one hundredths (974.51) acres according to the survey thereof, together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining; and the reversion or reversions, remainder or remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim or demand whatsoever, of the said party of the first part, either in law or equity, of, in, and to the above-bargained premises,

68 with the said hereditaments and appurtenances; to have and to hold the premises as before described, with the appurtenances, unto the said party of the second part, its successors and assigns forever. And the said party of the first part, for his heirs, executors and administrators, does covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that he, Edward W. Sparrow, the said party of the first part, has not heretofore done, committed or wittingly or willingly suffered to be done or committed, any act, matter, or thing whatsoever, whereby the premises hereby granted, or any part thereof, is, are or shall or may be charged or incumbered in title, estate or otherwise howsoever.

*In witness whereof*, the said party of the first part has hereunto set his hand and seal the day and year first above written.

EDWARD W. SPARROW. [L. s.]

Signed, sealed and delivered in presence of—

FRANK E. CHURCH.

WM. VAN BUREN.

STATE OF MICHIGAN, }  
 County of Ingham, } ss :

On this eighth day of November, in the year of our Lord one thousand eight hundred and eighty-seven, before me, a notary public in and for said county, personally came the before-named Edward W. Sparrow, known to me to be the person who executed the foregoing instrument, and acknowledged the same to be his free act and deed.

FRANK E. CHURCH,  
*Notary Public in and for Ingham County, Mich.*

GEORGE W. DOXIE, after being duly sworn on behalf of the plaintiff, testified as follows :

I reside at Cadillac, Mich. For the last twenty-odd years I have been estimating standing timber ; still doing it ; that is my business. I examined some land for Mr. Sparrow ; I have been for the last eight years, off and on ; for him the same as anybody else. I examined the southeast quarter of the southeast quarter of section 20, on 18, 3, and the northeast quarter of the southwest quarter of section 21. I saw them January 14th, 1887.

Q. What was its condition at that time as to being wild and uncultivated or otherwise ?

A. It was wild land, uncultivated, in a state of nature. I examined the northwest quarter of the southeast quarter of section 22, 18, 3, January 7, 8 and 13. The whole section on that description was done between those dates in 1887.

Q. What was the condition of those lands as to being wild and uncultivated at that time ?

A. Entirely wild land, no disturbance, no chopping, nothing of that kind. I saw the northwest quarter of the northwest quarter of section 28, 18, 3, January 16 and 17, 1887.

Q. What was their condition at that time ?

A. Entirely wild, the same as the rest.

Q. What was the value of these lands in your judgment ?

A. The value of them and the timber ?

Q. Yes, sir, as they were situated at that time.

A. Well, I could not tell you.

Q. Were they worth \$2,000 and over ?

A. Why, yes, I can remember that much.

Cross-examination by Mr. HANCHETT :

The value consisted in the timber ; it was pine timber, hardwood and hemlock ; I could not tell how much pine timber was on the land without going to my report ; the most valuable timber was the pine ; the hardwood didn't amount to anything ; the hard timber was beech and maple, soft elm and basswood, and such as are common in hardwood lands ; that would comprise the different varieties of timber I found on this land. Some of the land didn't

70 have all the timber. Some of them had one kind and some another; speaking generally, those were the kinds of timber on the land; the value was in the timber and not in the land itself; some of the land was second-class farming land; the main value was in the timber I found on them; I don't remember of any road on these lands; I had made diagrams of all this land, and the roads are all marked, and there are no roads on my diagram having refreshed my memory from the diagrams, I can say there were not any roads on these lands; they were lumbering on adjoining sections, and in that same township there has been a good deal of lumbering; I do not remember particularly about the east half of the southwest of one, 18, 4. It is quite a while since I have been there; it is not far from Harrison, right in that old lumbering district there.

Q. What I want is to direct your attention particularly to the fact: Hadn't the work of cutting roads on that 80 been begun when you were there in January, 1887? Were not men at work on the 80 cutting roads?

A. I don't hardly think it, but there was some lumbering going on a little ways east of there. I was there examining that 80. I didn't come across men known as the Rust men, working there. There was no Rust men working around that country, but there were other names.

Q. Were not there some men cutting roads on that land, and didn't they inquire of you what you were looking the land over for? Don't you remember that circumstance?

A. Well, sir, there was men somewhere in there, but I would not tell what part of it. We met some men in there cutting roads. I was up on a rolling piece of ground, and I just recollect there was some men in there, and I could think of their names after a little while.

Q. Around there on the east half of the southwest of one, 18, 4?

A. I could not tell you that.

Q. Then that may have occurred?

A. Well, I would not say anything like that. I would not dare say that. But I met men in a good many places in that country there. I heard the name of McTavosh somewhere. I saw two or three groups of men in that country, and I don't remember if there was anything going on on that land. If there was anything going on on that land I would have mentioned it. The whole surface and the shape and everything is all on my books.

Q. Well, I don't care for your report, except so far as it refreshes your recollection. You remember the circumstance at one time of a man being there with men cutting a road?

A. No, sir, not on that description. I met men right in that country, though. Somewhere up there I was inquired of why I was looking at the land, a number of times. When that inquiry was made I was on rolling land, dry land, where parties were cutting a road. They were lumbering there, but not on this description. I would not locate where it was.

Q. Will you say that did not occur on the east half of southwest of 1?

A. I will say I don't remember that occurring on that description. If it did I should have made a memorandum of it.

Q. Do you say it didn't?

A. Yes, I would say it didn't, of course.

And for the purpose of showing jurisdiction and conflict between Federal grants, plaintiff's counsel then read in evidence the following patent of the United States :

### EXHIBIT 37.

#### THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, Greeting :

Certificate No. 20833.

72 *Whereas*, William A. Rust, of Saginaw county, Michigan, has deposited in the General Land Office of the United States a certificate of the register of the land office at Ionia, Michigan, whereby it appears that full payment has been made by the said William A. Rust according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the southeast quarter of the southeast quarter of section twenty, in township eighteen north, of range three west, in the district of lands, subject to sale at Ionia, Michigan, containing forty acres, according to the official plat of the survey of the said lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said William A. Rust:

Now, know ye that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said William A. Rust, and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said William A. Rust and to his heirs and assigns forever.

*In testimony whereof*, I, Ulysses S. Grant, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the tenth day of May, in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States the ninety-fourth.

By the President :

[SEAL.]

U. S. GRANT,  
By CHARLES WHITE, *Secretary*.  
J. N. GRANGER,  
*Recorder of the General Land Office.*

Recorded in vol. 38, page 138.



And for the same purpose:

## EXHIBIT 38.

65108.

## THE UNITED STATES OF AMERICA.

To all — whom these presents shall come, Greeting:

Certificate No. 20836.

*Whereas*, William A. Rust, of Saginaw, Michigan, has deposited in the General Land Office of the United States a certificate of the register of the land office at Ionia, Michigan, whereby it appears that full payment has been made by the said William A. Rust, according to the provisions of the act of Congress of the 24th of April, 1820, entitled, "An act making further provision for the sale of the public lands," for the northwest quarter of the southwest quarter of section twenty-one, in township eighteen north, of range three west, in the district of lands, subject to sale at Ionia, Michigan, containing forty acres, according to the official plat of the survey of the said lands, returned to the General Land Office by the surveyor general, which said tract has been purchased by the said William A. Rust.

*Now know ye*, that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress, in such case made and provided, have given and granted, and by these presents do give and grant, unto the said William A. Rust, and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities and appurtenances of whatsoever nature, thereunto belonging, unto the said William A. Rust, and to his heirs and assigns forever.

*In testimony whereof*, I, Ulysses S. Grant, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

74 Given under my hand, at the city of Washington, the tenth day of May, in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States the ninety-fourth.

By the President:

[SEAL.]

U. S. GRANT,  
By CHARLES WHITE, *Secretary*.  
J. N. GRANGER,  
*Recorder of the General Land Office.*

Recorded, vol. 38, page 141.

And for the same purpose read

## EXHIBIT 39.

## THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, Greeting:

Certificate No. 20871.

*Whereas*, William A. Rust, of Saginaw county, Michigan, has deposited in the General Land Office of the United States a certificate



of the register of the land office at Ionia, Michigan, whereby it appears that full payment has been made by the said William A. Rust, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the northwest quarter of the southeast quarter of section twenty-two, in township eighteen north, of range three west, in the district of lands, subject to sale at Ionia, Michigan, containing forty acres, according to the official plat of the survey of said lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said William A. Rust.

Now, know ye that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and  
75 granted, and by these presents do give and grant, unto the said William A. Rust, and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging unto the said William A. Rust, and to his heirs and assigns, forever.

*In testimony whereof*, I, Ulysses S. Grant, President of United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the tenth day of May, in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States the ninety-fourth.

By the President:

[SEAL.]

U. S. GRANT,  
By CHARLES WHITE, *Secretary*.  
J. N. GRANGER,  
*Recorder of the General Land Office.*

Recorded vol. 38, page 176.

And for the same purpose read

EXHIBIT 40.

65108.

Certificate No. 20872.

THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, Greeting:

Whereas, William A. Rust, of Saginaw county, Michigan, has deposited in the General Land Office of the United States a certificate of the register of the land office at Ionia, Michigan, whereby it appears that full payment has been made by the said William  
76 A. Rust, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the northwest quarter of

the northwest quarter of section twenty-eight, in township eighteen north, of range three west, in the district of lands subject to sale at Ionia, Michigan, containing forty acres, according to the official plat of the survey of the said lands, returned to the General Land Office by the surveyor general, which said tract has been purchased by the said William A. Rust.

Now know ye that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said William A. Rust, and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature thereunto belonging, unto the said William A. Rust, and to his heirs and assigns forever.

*In testimony whereof*, I, Ulysses S. Grant, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the tenth day of May, in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States the ninety-fourth.

By the President:

[L. S.]

U. S. GRANT,  
By CHARLES WHITE, *Secretary*.  
J. N. GRANGER,  
*Recorder of the General Land Office.*

Recorded vol. 38, page 177.

77 And for the same purpose, plaintiff's counsel read Exhibit 41, a quitclaim deed from William A. Rust, dated January 15th, 1870, to John F. Rust, David W. Rust and Aloney Rust, for the land described in the foregoing patents with other lands, which deed was duly recorded in 1871; also Exhibit No. 42, being a decree in partition, dated June 24th, 1878, made between David W. Rust, John F. Rust and heirs of Aloney Rust, in which there was set over to David W. Rust the lands in the foregoing patent, which decree was duly recorded in 1879; also Exhibit 43, a quitclaim deed, dated Oct. 3rd, 1878, from David W. Rust and wife to John F. Rust, of an undivided one-half of the premises described in the foregoing patent on sections twenty-two (22) and twenty-eight (28), which deed was duly recorded in 1879; also Exhibit No. 44, being a quitclaim deed from David W. Rust and wife to John F. Rust, bearing date January 20th, 1879, conveying to John F. Rust an undivided one-half interest in the lands in sections twenty (20) and twenty-one (21), duly recorded in 1879; also Exhibit 45, being a warranty deed, dated August 13th, 1879, from David W. Rust and wife and John F. Rust and wife to George Rust, conveying an equal undivided one-third interest in the lands covered by the foregoing patents, duly recorded in 1879; also Exhibit 46, being a warranty deed, dated September 28th, 1881, from George Rust and wife to John F. Rust, of an undivided one-third interest in the lands in

controversy, recorded in 1881; also Exhibit 47, being a warranty deed from Laura Rust, John F. Rust and wife, Florence M. Rust, George Rust and wife, to Amasa Rust and Charles A. Rust, of an undivided three-twelfths interest in the lands in controversy, duly recorded in 1881; also Exhibit 48, dated October 28th, 1881, being a deed made by David W. Rust, Jr., by Laura Rust as special guardian, in pursuance of an order of the circuit court for the county of Saginaw, in chancery, to Amasa Rust and Charles A. Rust, of an undivided one-twelfth interest in the lands in controversy, duly recorded in 1881; also Exhibit 50, being a quit-claim deed from John F. Rust and wife to Amasa Rust and Charles A. Rust, of an undivided one-sixth interest in the lands in controversy, recorded in 1882.

And for the same purpose read

#### EXHIBIT 51.

Certificate No. 19223.

#### THE UNITED STATES OF AMERICA.

To all — whom these presents shall come, Greeting:

*Whereas*, Addison P. Brewer, of Saginaw county, Michigan, has deposited in the General Land Office of the United States a certificate of the register of the land office at Ionia, Michigan, whereby it appears that full payment has been made by the said Addison P. Brewer, according to provisions of the act of Congress of the 24th day of April, 1820, entitled "An act making further provision for the sale of the public lands," for the north half of the northeast quarter of section thirty-five, in township eighteen north, of range three west, in the district of lands subject to sale at Ionia, Michigan, containing eighty acres, according to the official plat of the survey of the said lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Addison P. Brewer.

Now know ye, that the United States of America, in consideration of the premises and in conformity with the several acts of Congress, in such case made and provided, have given and granted, and by these presents do give and grant, unto the said Addison P. Brewer, and to his heirs, the said tract above described.

To have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature thereunto belonging, unto the said Addison P. Brewer, and to his heirs and assigns forever.

*In testimony whereof*, I, Andrew Johnson, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington the tenth day of January, in the year of our Lord one thousand eight hundred

and sixty-seven, and of the Independence of the United States the ninety-first.

By the President:

ANDREW JOHNSON,  
By E. A. NEILL, *Secretary*.  
J. N. GRANGER,  
*Recorder of the General Land Office.*

Recorded, vol. 35, page 495.

Plaintiff's counsel then read in evidence for the same purpose, Exhibit 52, being a quitclaim deed, dated February 21, 1870, from Addison P. Brewer and wife to Jesse Hoyt, conveying an undivided three-fourths interest in the lands described in Exhibit 51; also Exhibit 53, being a special covenant deed from Addison P. Brewer and wife to Jesse Hoyt, of an undivided one-fourth interest in the lands described in Exhibit 51; also Exhibit 55, being a special covenant deed from Jesse Hoyt and wife to David W. Rust, of an undivided one-fourth of the lands described in Exhibit 51; and Exhibit 56, being a warranty deed from David W. Rust and wife to George Rust, of an undivided two-thirds of the land described in Exhibit 51, the title of an undivided one-third of which passed into Amasa Rust and Charles A. Rust by conveyances already put in evidence.

Plaintiff here rested.

The defendants, by their counsel, then offered testimony to sustain the issue on their part, the following: A letter and its inclosures upon the subject of defective surveys; to which counsel for plaintiff objected as immaterial and irrelevant, which  
80 objection was overruled by the court, and exception taken thereto for the plaintiff, and the same was then read in evidence as

#### EXHIBIT 57.

EXECUTIVE OFFICE, DETROIT, *February 3, 1842.*

To the President of the United States.

SIR: In pursuance of the instruction of the legislature of this State, I have the honor herewith to send you a joint resolution in relation to the resurvey of certain townships of land therein mentioned.

I have the honor to be your most ob'd't serv't,

JNO. S. BARRY.

Endorsed: "Referred by Pres't of U. S."

"Reported to the Pres't Feb. 17, 1842. W. T. S."

"Answered Feb. 21, 1842. W. T. S."

The resolution inclosed in the foregoing is as follows :

(No. 3.)

*Laws of Michigan, 1842.*

(No. 8.)

Joint resolutions requesting the President of the United States to cause the survey of certain townships of land.

Whereas, it has been satisfactorily made to appear to this legislature that large districts of lands lying within the limits of the State of Michigan have been returned by some of the deputy United States surveyors to the General Land Office as surveyed, where no surveys whatever have been made, or where the surveys have been so imperfectly done as to be utterly valueless; and whereas, the United States surveyor general of this land district has caused the lands so represented as surveyed to be offered for sale, to the very great injury of the State of Michigan and the citizens thereof; therefore,

*Be it resolved by the senate and house of representatives of the State of Michigan :*

That the President of the United States be requested to cause the subdivisions of the following townships of land, situate within the State of Michigan, and which have been represented to have been surveyed, but which have either not been surveyed or have been so imperfectly surveyed that said work is valueless, to be surveyed at as early a day as may be consistent, viz :

Towns sixteen and seventeen north, of range three east, and towns fifteen, sixteen and seventeen north, of range four east, and all the towns lying east of the principal meridian, from towns eighteen to twenty-five north inclusive, and ranges five, six, seven, eight and nine, east of towns twenty-six north, and also towns sixteen, seventeen and eighteen north, of range six, seven and eight west, including in all, eighty-one whole and fractional townships.

*Resolved,* That the governor be requested to transmit the foregoing preamble and resolution to the President of the United States.

Approved February 1, 1842.

And after like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 58.

GENERAL LAND OFFICE, *February 17, 1842.*

SIR : I have the honor to return herewith the letter of the governor of Michigan, bearing date the 3d instant, and its enclosure, a joint resolution of the legislature, alleging the existence of great imperfections in certain surveys of the public lands covering a large district in that State, and calling upon the President to cause a resurvey to be made of the subdivision lines of a number of townships therein enumerated, amounting to about eighty

townships and fractional townships, all of which were referred by you to this office on the 16th instant.

In reply, I have the honor to enclose herewith a diagram of the State of Michigan, on which the townships in question have been designated by distinctive colors as explained thereon, so as to show when and by whom the surveys were made, and beg leave to state that on a particular examination of the plats of survey and other records of this office, the former appear to be perfectly regular in every respect, and are all duly certified by the surveyor general, and no evidence can be found of the existence of the alleged defects in the surveys, the resolution being the first and only intimation which this office has had on the subject.

The lands, with the exception of one township, appear to have been all offered at public sale, and are now subject to private entry.

Under all the circumstances, I would respectfully recommend that a copy of the memorial be immediately referred to the surveyor general at Cincinnati for a full report of all the facts which it may be in his power to furnish, on receipt of which an immediate examination of portions of the field-work by one of his most trusted deputies could, if considered expedient, be ordered, and such further steps taken as may be necessary to retrace the original surveys and correct the plats so as not to disturb the titles which may have already or shall have become vested in the purchasers of the lands from the United States according to the original marks on the field; and should this course meet your approbation, on the return of the papers to this office, it will be immediately carried into effect, and the governor of Michigan duly advised thereof.

I am, sir, very respectfully your obedient servant,

E. M. HUNTINGTON,  
*Commissioner.*

To his excellency, John Tyler, President of the United States.

83

(Endorsed.)

Let the matter be referred to the surveyor general, with instructions as indicated, and let the governor of Michigan be informed of the measures to be adopted.

J. TYLER.

February 18, 1842.

Instructed surveyor general February 21, 1842. Sent copy of instructions to governor of Michigan, February 21, 1842. W. F. A.

See surveyor general's report, 4th March, 1842, and Commissioner's instructions, 2d April, 1842.

Also letter of same date to governor. W. T. S.

And on like offer, objection, ruling and exception, defendant's counsel read

## EXHIBIT 59.

GENERAL LAND OFFICE, *February 21, 1842.*

SIR: By order of the President, I have the honor to acknowledge the receipt of your communication of the 3d inst., covering a joint resolution of the legislature of the State of Michigan relative to certain surveys of the public lands in said State alleged to be very imperfect and defective, and to enclose a copy of my instructions of this date to the surveyor general at Cincinnati, Ohio, on the subject, which will show the action thus far had in the matter.

I am, sir, very respectfully, your obedient servant,

E. M. HUNTINGTON,

*Commissioner.*

To his excellency John S. Barry, governor of Michigan, at Detroit.

84 (Copy enclosed is as follows:)

GENERAL LAND OFFICE, *February 21, 1842.*

SIR: By order of the President, I herewith enclose a copy of the joint resolution of the legislature of the State of Michigan alleging the existence of great imperfections in certain surveys in that State, and calling the President to cause a resurvey to be made of the subdivision lines of a number of townships therein enumerated, amounting in the aggregate to about eighty townships, and fractional townships, and have to request that you will, at your earliest convenience, make a full report of all the facts in your power, in order that such further action may be had thereon as may be deemed expedient for ascertaining the true state of those surveys, and their completion on the field, without disturbing the titles which may have already or shall have become vested in the purchasers of the land from the United States, according to the original marks where such were made, accompanied by any suggestions which may occur to your mind as to the best course to be pursued in making the corrections, and for preventing such neglect of duty in future. Also, whether or not any of the deputies who were engaged on these surveys are at present in the employ of your office. Enclosed is a copy of the diagram which was laid before the President with my report of the 17th, on the subject, showing the position of the surveys in question, by whom and when surveyed, which may be found useful in making the investigation. I likewise enclose the copy of a letter bearing date the 22d of October, 1840, addressed by J. A. Rousseau to Dr. Houghton, geologist of Michigan, the original of which reached this office on the 18th inst., through the Secretary of the Treasury (after my report had gone to the President), with a letter from the Hon. William Woodbridge, and in which you will perceive that Mr. Rousseau (who is one of the deputies charge'd) acknowledges his surveys to be defective, and not according to your instructions.

85 In case you have not already done so, you will enforce the standing instructions of the 28th of July, 1831, of this office, requiring that "no deputy who has improperly failed to fulfill his engagements, is afterwards to be employed by you," and that "of every such failure you will give notice to the department, and on the receipt of your report, such further steps will be taken in regard to this matter as the facts shall warrant." You will also be expected, in case the errors exist as above alleged, to explain how it has happened that, under your supervision of these deputies for whose omissions and conduct you are held officially responsible to this department, you have suffered such gross impositions to be practiced by them on the United States.

Trusting that you will be able to explain in a satisfactory manner, I am, sir,

Very respectfully, your obedient servant,

E. M. HUNTINGTON,

*Commissioner.*

To Ezekiel S. Haines, Esq., surveyor general, Cincinnati, Ohio.

After like offer, objection, ruling, and exception, defendant's counsel read

#### EXHIBIT 60.

SURVEYOR GENERAL'S OFFICE,

CINCINNATI, *March 4, 1842.*

SIR: I have to acknowledge the receipt of your communication of the 21st ultimo, enclosing "a copy of the joint resolution of the legislature of the State of Michigan, alleging the existence of great imperfections in certain resurveys in that State, and asking the President to cause a resurvey to be made of the subdivision lines of a number of townships therein mentioned," and calling upon me to make at my "earliest convenience a full report of all the facts in my power in order that such further action may be had thereon as may be deemed expedient," etc. The report called for I now proceed to make.

86 In selecting his deputy surveyors, where they are unknown to him, the surveyor general must necessarily rely upon the recommendation of known and responsible persons, which in all such cases is required. As it respects their skill in the art of surveying, and their competency to execute their contracts, the surveyor general can generally test the deputies by personal examination. But of their integrity and trustworthiness he must necessarily rely upon the evidence contained in their recommendations. In the case now under consideration the Messrs. Rousseau, who are principally implicated, and who surveyed the lowest portions of the townships complained of, were taken into service by my predecessor in office, on the recommendation of several distinguished gentlemen of Louisville and elsewhere, which recommendations I enclose herewith for your perusal, and which you will be pleased to return to me at your convenience.



On coming into this office in June, 1838, I found their (the Rousseaus) names on the roll of approved deputy surveyors whose work had been acceptable. I had, therefore, no hesitation in continuing them in the service, it being the settled practice of the office to employ the old and experienced deputies in preference to new surveyors. They had but one contract from me, the returns of which (with the exception of some work, chiefly meanders in a few townships, which they afterwards corrected) were found as acceptable as the average returns of the deputies, conforming in all essential particulars with the instructions in force. In applying to their work the usual test of platting and close examination, there was nothing which could lead to the suspicion of defective work or of false returns. The rejected work above mentioned, and which was subsequently corrected, was portions of meanders of Lake Huron and Saginaw bay, where, owing to impassable marsh bordering them in many places, or from the quantities of ice driven on shore by the winds and waves, as they stated, it was exceedingly difficult to close the lines out to the margin and to take the meanders. And

87 it is unquestionable that the general character of the country covered by these contracts render the surveys very difficult.

As above stated, at the time of the platting and examination of the work of the Messrs. Rousseau, there was not the least reason to suspect them of any unfairness or fraud; and it was not until the summer of 1840, after their accounts had been made up, settled, and paid off (except a portion that was garnished in my hands by a creditor of R. H. Rousseau), that any intimation of a fraudulent return was received, at which time I was informed (unofficially) by a respectable deputy surveyor, Mr. John Mullett, that he had received information from Mr. Barton, register of the land office at Genesee, Mich., that affidavits of the fact of the alleged fraud had been lodged with him (Mr. Barton). I immediately had addressed an official letter to Mr. Barton, calling for all the information on the subject in his possession, a copy of which, dated July 30, 1840, marked A, is herewith transmitted. On the 3d of September following, having received no reply from Mr. Barton, I wrote him again, urging the immediate transmission to me of the information called for (see copy marked B). After waiting until the 26th of the same month and receiving no answer from Mr. Barton, I addressed to him the letter of that date (see copy marked C). I would here remark that the letter mentioned in that to Mr. Barton, was addressed (confidentially) to the chief clerk, in reply to one written at my request, but did not show in whose work or in what district the alleged frauds existed, but referred us to Mr. Barton. It was an extract from this letter which was sent to J. A. Rousseau, and which is referred to by him in his communication of the 22d of October, 1840, to Dr. Houghton, of Detroit, of which a copy accompanied your communication now before me. It may be proper to add that the letter to the chief clerk was not from Dr. Houghton, as Mr. Rousseau supposed.

On the 11th of November, my several letters to Mr. Barton re-

88      maining unanswered, I again called his attention to the subject of them in a postscript to a letter addressed to him under that date (see copy marked D), and with no better success.

Having failed to elicit any information from Mr. Barton, which I considered he, as a public officer connected directly with these lands, was bound to give me, I doubted whether any such affidavits or information of an authentic character had really been received by him. And my doubts on the subject were strengthened by the receipt of two communications from Mr. Rousseau's chainmen (R. McManners and A. Kress), dated October 28 and November 14, 1840 (see copies marked E and F). It was from these men, it seems, that the information in the possession of Mr. Barton, of whatever nature it may be, was obtained. And their letters will show how little reliance could be placed upon their testimony on either side. I sought information also from the other deputies, particularly those whose work adjoined that of the Rousseaus, respecting the character of their (the Rousseaus) surveys, but found that nothing objectionable in it had been seen by them. I likewise made inquiry of one or two other of their hands who were at this office, but obtained no knowledge of anything wrong in the work. All efforts to arrive at some certain or authentic knowledge of fraud having been committed by these men, I did not deem myself justifiable in withholding any longer the balance due them.

The deputy surveyors are a hard-working body of men, earn but little (if they do their duty), and endure great hardships. It has been my practice to pay them as soon as their work has been examined, platted, and approved; and it is with pride and satisfaction that I can say that not one has been delayed a day for want of his just earnings.

The townships of Mr. Gist's district, except township 26, range 9 E, were surveyed and returned by the Messrs. Rousseau, by my consent, under the original contract entered into by Mr. Gist, and long before there was any suspicion of dishonesty in the work of the Rousseaus.

89      Your communication conveys to me the first intimation of any defect or inaccuracy in the work of Mr. Coon. This was his first district of public surveying. He came strongly recommended as an able and experienced practical surveyor, and worthy of all confidence. I cannot but hope that there is some mistake about the three townships in his contract.

The district of Mr. Riley has not been before complained of either, until the receipt of your communication. He was on the roll of approved deputies when I came into office, and I had no reason to doubt his honesty and capacity.

None of the deputies whose work is here complained of are now in the service, nor will they or either of them be hereafter employed by me. Of this I will give you the proper notice in a separate communication, under the standing instructions of 28th July, 1831.

On the receipt of a report from me on the subject of these surveys, you propose to take such further action concerning them as may be

deemed expedient for ascertaining their true state, and ask any suggestions which may occur to my mind as to the best course to be pursued in making the corrections, and for preventing such neglect of duty in the future.

I would respectfully suggest, then, that an experienced deputy surveyor, say Mr. William A. Burt or Mr. John Mullett, be employed to go on the ground and examine each township (or a sufficient number of them in each district to satisfy himself concerning the whole), and ascertain and report the exact condition of the surveys in each. And if it shall be found that the surveys in the townships indicated, or any of them, are defective in the field-work, then new surveys in all such cases should be made at the expense of the contractor or his securities.

The concluding paragraph of your communication requires me "in case the errors exist as above alleged, to explain how it has happened that under 'my' supervision of these deputies, for whose omissions and conduct" I am "held officially responsible to the department," I "have suffered such gross imposition to be practiced by them on the United States."

90 I will explain to you then, how it may happen that impositions may be practiced by dishonest surveyors, without the possibility of detection from the examination of their returns.

The exterior boundaries of the townships are generally surveyed before their subdivision into sections is put under contract. It is usual to furnish each surveyor contracting for such subdivisions with a small map or diagram of his district, showing the length of each township line, the variation of the compass by which it was run, and the principal streams and lakes thereon, with a table of the bearing trees at each section corner, so that in case any original post may be gone, he can replace it in its true position. The surveyor proposing to commit a fraud by making return of field-notes where he has made no survey, in order to avoid the risk of detection, whether he has a diagram of his district or not, must at least pass along each of his township boundary lines, and carefully note the crossing of all streams, lakes, swamps, &c., thereon. He would probably then draw up a fictitious map of each township, laying down thereon streams, lakes, swamps, &c., carefully connecting them with those on the township lines, and by conforming the whole to what might be expected from the general character of the country, to give his maps the appearance of reality. With one of these imaginary maps of a township before him, the surveyor, with ordinary ingenuity, may make up a set of fictitious field-notes, in the regular order of subdivision, keeping probability always in view, as to length of lines, sight trees, bearing trees at the corners, the streams with their course and width, lakes, swamps, &c., with meanders of navigable waters and lakes, so constructed by previous platting as to make them close well. His field-notes of each township being thus carefully manufactured, bearing all the marks of genuineness, with the usual certificate signed by himself and his chainmen and markers, conforming apparently in every particular to the general instructions, and every precaution taken to give his

91 work, and all the circumstances connected with it, the appearance of reality, he makes his returns into the office of the surveyor general. His field-notes are then put into the hands of the draughtsmen, who therefrom prepare the township maps, by careful platting and close examination of the notes. His maps and field-notes agreeing with the previous survey of the exterior lines, his meanders closing well, the whole work presenting the appearance of genuineness, the survey is approved and accepted as a matter of course.

It will be borne in mind that the surveyor general cannot be expected to make personal examination of the field-work; that the deputy is a sworn officer; that his chainmen and markers are sworn assistants; that he is under contract, with security in double the amount of his work; that his skill and competency as a surveyor have been previously ascertained, and his character for integrity and faithfulness has been amply vouched for by the recommendations of known and responsible men. How, then, in such a case as I have here presented, can the surveyor general detect the fraud?

Impositions of this kind have, in several instances, been practiced on my predecessors, without detection: upon Surveyor General Mansfield, some thirty-five years ago, in the Cincinnati land district; upon Surveyor General Tiffin, about twenty years ago, in the Lima district; and upon Surveyor General Lytle (the elder), about twenty years ago, in the Fort Wayne district. Some instances of the same kind, I believe, have occurred with the surveyor general of other districts. I mention these cases to show the possibility of such frauds escaping detection, notwithstanding all the vigilance which may be exercised.

It has been the uniform practice of this office, both since I have had charge of it and (as I learn) before, to subject the returns of the deputy surveyors to the most careful and rigid examination, and to guard the public interests by all the means in its power. And it has very often happened that offense has been given to deputy surveyors by the rejection of a part of their work, which has obliged them to return to their districts to correct, as in case of Thomas Cox, of Iowa, which was lately before you, who

92 when part of his survey was rejected, became much excited, insisting strenuously that his work was right, and that he had been engaged in the public surveys under several surveyors general for thirty years, and never had his work objected to before. It has never before, I believe, been alleged that erroneous or fraudulent returns of surveys have been admitted or escaped detection through remissness of duty or want of vigilance in this office, and it is worthy of remark that to this day none of the public officers of Michigan have advised this office of any defective or fraudulent surveys therein, nor has any complaint been made to me of neglect on the part of any of my deputies. And I am even yet ignorant of the nature of the alleged omissions or inaccuracies, and cannot but indulge the hope that the allegations (except, possibly, to a very limited extent) may, in the end, be found unsustained in fact. To show that there is some ground for this hope, I beg

leave to refer you to the enclosed extract of a letter addressed to me by S. W. Higgins, Esq., State topographer of Michigan, on the 18th November, 1839, marked G.

In the cases now under consideration, the Messrs. Rousseau were out on or in the vicinity of their contracts, ample time to have made a complete survey of every township returned by them. They sent to this office from time to time the notes of a few townships, and drew on me for money to pay, as they said, their assistants and to purchase provisions, as had been the usual practice; and as their returns came in they were platted, and whenever any inaccuracy was found in their work, it was immediately notified to them for correction, which they attended to.

For the general accuracy and character of the work done in this office, in relation to the public surveys, I request you to refer to Mr. John M. Moore, your chief clerk, and to Samuel D. King, your special agent for the examination of the surveyor general's offices, who are both well acquainted with the business done in this office.

93 You invite my suggestions as to the best mode of detecting fraudulent work by the deputies, and for preventing them in future. It has long been deemed in this office necessary that some more effectual method should be adopted for detecting errors or frauds in the field. In the summer of 1840, when Mr. Whitcomb, your predecessor in office, was on a visit to this city, I conversed with him particularly on this subject, and recommended that provision should be made for enabling the surveyor general to employ a confidential agent or agents to inspect on the ground, promiscuously, portions at least of the field-work of every deputy, and examine into its correctness so far as to assure himself or themselves that the work was faithfully executed according to law and the general instructions, and to report its true condition to the surveyor general. In this suggestion Mr. Whitcomb fully concurred. The knowledge that such examinations are to be made (the times and places of examination being unknown to the deputy) would, I think, be a great security for a faithful execution of his work.

As a still more effectual safeguard against fraudulent work and false returns by the deputies, I recommend that such frauds be made by law a criminal offense, subjecting the delinquent to severe pecuniary penalties and to confinement in a penitentiary or State prison. Such provision may perhaps now be in force under existing laws, as suggested by the Commissioner of the General Land Office in a communication to the surveyor general of Mississippi, dated March 18, 1829 (see Public Land Laws, part 2d, page 894). Should it be your opinion that such provision does now exist, in the event of its being ascertained from examination in the field that all or either of the deputies now charged with false returns or fraudulent work are guilty of the charge, I would respectfully recommend that criminal prosecution be instituted against them for a violation of their oath of office, as suggested in the passage above referred to.

I should have mentioned in the proper place that this subject was particularly recommended to Mr. Samuel D. King, your special agent, when examining this office in August last, and

the suggestions met with his entire concurrence, and will doubtless be embraced in his report.

With this report I transmit copies of such part of the correspondence of this office as have a bearing upon the subjects thereof, and not hereinbefore referred to. They are as follows:

H, I, K, relate to erroneous and defective work in old surveys.

L, M, N, relate to portions of the Rousseaus' work rejected.

O, P. Extracts from official instructions.

Q. Urgent demand of R. H. Rousseau for the balance of his account, garnisheed.

Very respectfully, sir, your obedient servant.

E. S. HAINES,  
*Surveyor General.*

Hon. E. M. Huntington, Com'r Gen'l Land Office, Washington.

Endorsed—Briefed:

"Acknowledged, March 17, 1842. W. T. S."

"See instructions of 1, 2, 1842, for retracing."

"Also letter of same date to governor of Michigan. W. T. S."

"Received March 11, 1842."

After like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 61.

GENERAL LAND OFFICE, *April 2, 1842.*

SIR: With my communication of the 21st of February last I had the honor to transmit a copy of my instructions of same date to the surveyor general at Cincinnati on the subject of alleged defective surveys of the public lands north of the Saginaw bay, in the State of Michigan. I now have the honor to state that a full report has since been received from the surveyor general on  
95 the subject, and to enclose for your information a copy of my instructions to him of this date, issued in consequence thereof.

I am, sir, very respectfully, your obedient servant,

E. M. HUNTINGTON,  
*Commissioner.*

To his excellency, John S. Barry, governor of Michigan, at Detroit.

(The following is copy of paper enclosed:)

GENERAL LAND OFFICE, *April 2, 1842.*

SIR: In reply to the suggestion made in your report to this office of the 4th ultimo, on the subject of the alleged errors and omissions in the surveys of the public lands north of Saginaw bay, Michigan, "that an experienced deputy surveyor be employed to go on the ground and examine each township (or a sufficient number of them) in each district, to satisfy himself concerning the whole, and ascer-

tain and report the exact conditions of the surveys in each; and if it shall be found that the surveys in the townships indicated, or any of them, are defective in the field-work, then new surveys in all such cases should be made at the expense of the contractor or his securities," I have to state that your recommendation is approved, and to request that you will, at your earliest convenience, take the proper steps to carry it into effect. As these lands have already been put into market, a part of them sold, and the balance remain subject to private entry, you will be particularly careful in your instructions to the deputy to prevent any departure from the original marks made on the ground in the existing surveys, which would disturb the titles acquired by purchasers, and the amended field-notes should show, by references to such marks, that they have been found and adopted; or, if not found, and there is sufficient evidence that no corner was made in the original survey, the facts in such cases should be noted, as also the mode in which such corners were restored or re-established. You will likewise report to this office during the progress of the examinations of such townships, and parts of townships, as it may be advisable to withdraw from market until corrected plats can be furnished. As regards the other matters contained in your report, they will be considered in proper time or when called up.

I am, sir, very respectfully, your obedient servant,

E. M. HUNTINGTON,

*Commissioner.*

And after like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 62.

*(Instructions of Wm. A. Burt.)*

SURVEYOR GENERAL'S OFFICE,

CINCINNATI, April 11, 1842.

SIR: On Saturday (9th) I transmitted to you a copy of a communication just received from the Commissioner of the General Land Office, instructing me to cause examination to be made into the character of certain surveys east of the meridian, Michigan.

I have now to call your attention to the subject for the purpose of furnishing you with the necessary instructions in relation to the examination to be made.

On the 1st of February last, it appears a "joint resolution" was passed by the legislature of Michigan, calling upon the President of the United States to cause certain townships therein enumerated to be surveyed, which townships the resolution represents as "either *not surveyed*, or have been so *imperfectly surveyed* that said work is valueless." This resolution was referred to the Commissioner of the General Land Office by the President, and a copy thereof enclosed to me with the Commissioner's letter of the 21st February last, copies of both of which I herewith transmit to you. In my report to the Commissioner on this subject, I showed him the pre-



caution which was constantly used to prevent loose, defective or fraudulent work, and the rigid scrutiny to which the work of the surveyors is subjected in this office in the examination of their work, and pointing out to him at the same time the possibility of a deputy practicing a fraud upon the office, such as that alleged, by making up a set of false field-notes so ingeniously constructed as to escape the closest examination. I showed the Commissioner likewise, that having been informed by one of the Michigan deputies (confidentially) that some depositions alleging fraudulent work had been lodged with the register of the land office at Genesee, I had written repeatedly and urgently to the register for copies of the depositions, if any such be had, or some authentic information concerning the alleged frauds, that I might take the proper steps to ascertain the facts in the case. All my efforts to get the desired information from the register failed, as he never made any reply, and I could get no clue from any other source to the alleged frauds which would justify me in instituting examinations. And so the matter rested until brought up in the manner above recited.

It is very probable, from the respectable source whence the information now obtained emanates, that fraud to a greater or less extent has been practiced on the office and on the public interests, and, of course, false returns made. To ascertain whether this be a fact, and to what extent those frauds exist, is the object for which I now commission you. I have to request, therefore, that you will repair to the townships specified in the joint resolution (or so many of them as you can visit, or as may be sufficient to form a fair opinion as to the others), and by actual examination and inspection on the ground ascertain the true state of the surveys which the sections purport to have been made in those townships. Whether it will be necessary for you to take your compass and chain you can judge for yourself. It may, in some cases at least, be found expedient, where lines have been run, to examine the course and measurement of them, and compare the state of the work with the field-notes of the townships where copies are now furnished.

98 You will please make full notes of your examination, describing the actual state of the work in each township separately, and in accordance with the intention of the Commissioner's instructions herewith. As often as practicable, without inconvenience, you will please report to me your progress, with the result of your examinations. There are three townships in Mr. Coon's district (Tp 25, Rs 1, 2 & 3 E), included in the list by the Michigan legislature. If possible, you will please examine them, in whole or in part, as I think it probable they are named in mistake for R. H. Rousseau's work.

I transmit to you copies of the field-notes of 24 townships of those referred to, to wit, Ts 21, 22, R 1 E; T 16, R 3 E; Ts 16, 17, 18, 23, R 4; Ts 16, 17, 18, 20, 23, 24, 25, R 5; Ts 19, 20, 21, 22, R 6; Ts 20, 21, 22, 23, R 7; T 22, R 8; T 22, R 9, in seven packages, all postage paid. These are copies which the deputies had sent in before their work



was completed, the originals being on file here. You will please return them to this office, as they may be needed again.

A reasonable compensation will be paid to you for your services, including your necessary expenses, on the completion of your labors.

You will please call upon the register of the land office at Genesee for a list of the sales of public lands in the townships specified in the legislative resolution; and have reference to these tracts, as far as practicable, in your examinations and your report.

Very respectfully, sir, your ob't serv't,

E. S. HAINES, *Sur. Gen'l.*

William A. Burt, Esq., dep. sur., Mt. Vernon, Mich.

Copy sent to Hon. A. S. Porter, U. S. Senate, 10 Jan'y 1844. S. N.

99 After like offer, objection, ruling, and exception, defendant's counsel read

#### EXHIBIT 63.

SURVEYOR GENERAL'S OFFICE,

CINCINNATI, August 1, 1842.

SIR: On the receipt of your instructions of April 2 ultimo, my predecessor dispatched an old and experienced deputy surveyor (William A. Burt of Michigan) to examine by personal inspection on the ground into the actual condition of the surveys north and west of Saginaw bay, in Michigan, as directed by you.

Mr. Burt has executed the trust assigned to him, and made his report to this office, and I herewith transmit to you a copy thereof, together with a copy of the surveyor general's instructions to him.

The report of Mr. Burt, you will see, furnishes abundant proof that the surveys examined by him are grossly defective and fraudulent, and there is a high probability that the remaining townships in the same contracts, not examined by Mr. Burt, are as defective as those which he inspected.

Having reported to you the facts in the case for your consideration, I shall await your instructions before taking any further steps in the matter.

Very respectfully, sir, your obedient servant,

WILLIAM JOHNSON,

*Surveyor General.*

Hon. Thomas H. Blake, Comm'r Gen'l Land Office, Washington.

100 And after like offer, objection, ruling, and exception, defendant's counsel read

## EXHIBIT 64.

GENERAL LAND OFFICE, *October 4, 1842.*

Hon. A. S. Porter, Detroit, Mich.

SIR: I have the honor to acknowledge the receipt of your communication of the 26th ulto. on the subject of the defective surveys north of Saginaw bay, in the State of Michigan.

In reply, I have to state that a report bearing date the 1st of August last has been received at this office from the present surveyor general at Cincinnati, covering a copy of the report of the deputy surveyor who was appointed to examine the condition of the surveys in question on the field, as authorized by the instructions of this office of the 2d of April last; from all which it appearing that the surveys as far as examined were found grossly defective and fraudulent, it is designed to issue instructions from this office for the necessary resurveys in a few days, or so soon as the proper maps now preparing to accompany them shall be completed, when steps will likewise be taken for the prosecution of the delinquent deputies and their securities.

I am, sir, very resp'y, your ob't serv't,

THOS. H. BLAKE, *Com'r.*

On like offer, objection, ruling and exception, defendant's counsel read

## EXHIBIT 65.

SURVEYOR GENERAL'S OFFICE,  
CINCINNATI, *April 27, 1843.*

SIR: I have to acknowledge the receipt of your communication of the 18th inst., with its enclosures, in relation to the defective and erroneous surveys situate north and west of Saginaw bay, instructing me to take immediate measures "to cause the surveys and marks to be corrected and completed," confining our "operations in the field to the lines actually necessary for that purpose," and advising me that the sum of \$4,000 has been set apart for that object.

101 It is shown by Mr. Burt's report that in the townships examined by him, a very small portion (if any) of the lines had been surveyed or marked; and what was found to have been done, was so erroneous and defective that little or none of it can be relied upon, but nearly all will have to be resurveyed and marked. The sum appropriated for the purpose will not, therefore, defray the expense of surveying more than about one-third of the number of townships embraced in your order, allowing \$2.75 per mile (the usual price) for every mile actually run and marked.

In this state of the case, I infer it to be your intention to limit the expenditure under your order to the sum named in your communi-

cation, and shall therefore restrict the contracts to that amount, embracing the townships nearest to the coast, which will be more salable than those in the interior.

If this course should not be approved by you, I will thank you to apprise me thereof, early. Notice has been given this day to three of the most experienced deputy surveyors in Michigan to be in readiness to take the field so soon as their instruction and other papers can be made out and forwarded to them.

Very respectfully, your ob't serv't,

WILLIAM JOHNSON,

*Surveyor General,*

By SAM'L WILLIAMS, *Ch'f Cl'k.*

Hon. Thomas H. Blake, Com'r Gen'l Land Office, Washington.

P. S.—The surveyor general will be absent from the city for a few days.

S. W.

Answered May 3, 1843. W. T. S.

Steiger, May 2, 1843.

102 On like offer, objection, ruling and exception, defendant's counsel read

Extracts from the report of the Commissioner of the General Land Office and the surveyor general for 1843.

With reference to the published reports of the General Land Office, the State land office and governor's messages, the entire reports and documents are considered as in evidence, but the parties have selected portions thereof to be printed in this record, not intending thereby to be deprived of the privilege of referring to the entire documents, should such a course seem desirable.

#### EXHIBIT 66.

#### *Report for the Year 1843,*

Being House Document No. 37, Twenty-eighth Congress, first session.

Page 52 (from surveyor general's report):

"In Michigan, the surveys ordered by your instruction of the 18th of April last, namely, the correction and completion of the defective surveys in certain townships enumerated by you, north and west of Saginaw bay, were committed to three deputies of much skill and experience."

And on page 53:

"I suppose it to be the intention of the Government to complete the resurveys already begun in Michigan, north and west of Saginaw bay, which are the subject of your instruction of the 18th of April last. I present an estimate, therefore, embracing a sum equal to the expense of an entire resurvey, as it is probable, from

the best information received, that no part of the subdivisions, actual or pretended, in the townships referred to can be made available."

"Accompanying this report, I transmit to you the usual estimates, together with those called for by your circular of the 18th of August, and your instruction of the 4th ultimo, to wit: "

103

A.

Estimate of the amount of disbursements for surveying the public lands and for contingent expenses at the office of the surveyor general at Cincinnati for the fiscal year ending the 30th of June, 1845.

" For resurveying erroneous and defective surveys north and west of Saginaw bay, Michigan..... \$10,400 "

After like offer, objection, ruling and exception, defendant's counsel read

## EXHIBIT 67.

SPRINGWELLS (Near Detroit), *September 16, 1844.*

Thos. H. Blake, Esq., Com'r Gen'l Land Office.

SIR: While the appropriation bill still remained still unacted upon in the Senate, during its last session, I had the pleasure of repeated and long conversations with a gentleman of the Gen'l Land Office, of superior intelligence, and who possessed, I thought, most deservedly, your entire confidence, relative to the ruinous tendency upon the public surveys of that bill as it passed the House. Being entirely persuaded that very great injustice had been done to Michigan in the *appointment* of the yearly appropriations for surveys, and that habitually, and for several years past, my intention was to induce such amendment to be made in the appropriation bill as would specifically designate a proper proportion of the aggregate amount appropriated to be expended in surveys *here*. The fair and liberal views expressed to me by Mr. Wilson, however, and the assurances he gave me that liberal justice would be done to Michigan in that regard, relieved me from all inquietude I had felt before, in that matter, and I applied all my efforts to secure such increase in the amount of the appropriation (so greatly cut down below the estimates in the House) as you  
104 desired, and as the public interests most manifestly demanded. Of the results of those efforts, and doubtless of other causes and other just views on the subject of Mr. Senator Evans, you are fully aware, and I confidentially say that it was as well the expectation of Mr. Evans (to whom I communicated the views of Mr. Wilson, which I supposed were your views also), as it certainly was mine, that the surveys in Michigan would be forthwith recommenced, and at least that all these erroneous surveys which had been made the subject of so much complaint here, and which were and are leading to such interminable mischief, would

have been immediately attended to. In the township of Salem, Washtenaw county, the last census exhibits, I think, full 1,600 actual residents, and yet the public surveys there were either never completed, or so very wretchedly done by Mr. Wamples, that the people there are "all by the ears." They had applied to Congress for relief, but having the positive assurance that that matter should be immediately acted upon by you, and that an effort by resurvey would be made to accommodate and remove their embarrassments, I introduced no bill, and made on the part of the land comm'r no report. I have been again applied to by those residents, since my return, and all I could say to them was to reiterate what I had written to them immediately after my conversation with Mr. Wilson, that I had such assurances from the Gen'l Land Office as that I could not doubt but their hard case would immediately receive the attention of the Gen'l Land Office and of the Government. With such assurances from me, they are now daily expecting Mr. John Mullett, or some other just and skillful surveyor, to go on with that work. On the 80 townships, falsely returned as surveyed, &c., and which were the subject of certain legislative resolves of our Michigan legislature, I am told that at least one man or company, tired of waiting, have now commenced erecting expensive mills. Others who would buy are deterred from purchasing because of the fear that is entertained that whoever buys there, buys—for himself and his "assigns forever,"—interminable lawsuits instead of a good title, by reason of that outrageous fraud in the surveys. I am told that even where more than a year since new or corrected surveys have been made, the officers of the Genesee land office cannot sell under the new surveys, but only under the old false and fictitious ones. This state of things, I am quite sure, sir, you will agree with me, is depreciating. But yet, though the season is fast passing by, I cannot bear that the first step has been taken since the appropriation bill was passed, to correct these aggregate evils. Some eight or ten thousand dollars at least, I suppose, would be requisite to resurvey that country, which was thus falsely returned as surveyed, and of the \$110,000 appropriated I suppose at least \$12,000 or \$15,000 ought to be assigned to Michigan, and the contracts, indeed, long since taken. It does not seem to be remembered that our winters in this high northern latitude come early and remain long. And, without meaning to cast blame anywhere, I certainly consider it deeply to be lamented that this important work has not long since been let out. Doc. Houghton (our geologist) has made a commencement in his work of a geological survey, altho' he has so many difficulties which the ordinary surveys of the country do not present. And with regard to that survey, I wish to remark that that was the subject of a new and specific provision in the law—running into some three years—I cannot in any wise be esteemed to the effect either the prosecution of the ordinary lineal surveys here, nor the proportion of the aggregate appropriation for the year. The great and increasing evils suffered by the State of Michigan, by suffering these false returns of surveys, alluded to

above, to remain without correction, I am sure I need not press upon your consideration. They are of incalculable extent, and have already produced a deep feeling of wrong done throughout our State. In a word, sir, I ask leave most earnestly to press this matter before your immediate attention,

And remain, very respectfully, your obedient servant,

WILLIAM WOODBRIDGE.

106

And after like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 68.

GENERAL LAND OFFICE, *September 30, 1844.*

Hon. Wm. Woodbridge, Springwells, near Detroit, Michigan :

SIR : I have the honor to acknowledge the receipt of your communication of the 16th inst., and, in reply, to state that of the general appropriation of \$110,000 for resurveying the public lands, made by the act of 17th June last, the sum of \$15,000 was apportioned to the surveying district of Ohio, Indiana and Michigan. The amount thus apportioned is in the same proportion to the amount appropriated, as the sum reported to Congress as the apportionment of the Cincinnati district was to the \$162,000 asked for this office, after deducting \$110,000 for Mississippi, to replace that amount heretofore appropriated for that State and expended elsewhere. For the disbursement of the amount thus apportioned, instructions were sent to the surveyor general on the 20th of September, 1844, extracts of which I send you enclosed, marked A, from which you will perceive that the whole apportionment will be expended in Michigan, except a small amount for the correction of some erroneous surveys in Indiana. Now the best information I could collect, I did not deem it advisable that the whole amount apportioned to the Cincinnati district should be expended in correcting the fraudulent surveys north and west of Saginaw bay ; in fact it would require more than that amount to have corrected the whole of those surveys, and as it was aggregated as important that surveys and subdivisions should be made in the northern peninsula of Michigan, near the line between Michigan and the British possessions, a portion of that fund was directed to be expended on these surveys also.

The importance and necessity of the correction of the  
107 erroneous survey of T 1 S, R 7 E, Michigan, mentioned by you, has been fully realized, and the necessary instructions for that purpose have been prepared and transmitted to the surveyor general, a copy of which is enclosed, marked B.

All the other cases of erroneous or defective surveys in Michigan will be examined and instructions issued as speedily as they can be prepared. Why the land officers should sell by the plats of the fraudulent surveys north and west of Saginaw bay, I cannot imagine, as the plats of the corrected surveys were forwarded to them

by the surveyor general on the 5th June last. I shall, however, immediately write to them on the subject.

I hope the explanations given above will satisfy you that there has been no unnecessary delay in having those resurveys executed which are so important to the settlers and so much desired by you and this office.

I shall be happy to hear from you as often as your convenience will permit, and will be gratified to forward to the extent of power any measure connected with the land system in Michigan which you may deem important to the interests of that State.

With great respect, your obedient servant,

THOS. H. BLAKE,

*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 69.

GENERAL LAND OFFICE, *October 1, 1844.*

Register and receiver, Genesee, Michigan.

GENTLEMEN: I am advised that, from circumstances which are not explained, you cannot sell the lands north and west of Saginaw bay by the new and corrected surveys, but only by the old false and fictitious ones. You will please to advise me if such is the fact, and the cause of it.

108 The plats of the fraudulent surveys should have been canceled immediately on the receipt of the plats of the new surveys, and proper references made on them to these new plats, so that the plats of the fraudulent surveys should not be used under any circumstances.

Very respectfully, your obedient servant,

THOS. H. BLAKE,

*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read extracts from the reports of the Commissioner of the General Land Office and surveyor general for the years 1844 to 1848, inclusive, as

#### EXHIBIT 70.

*Report for the Year 1844,*

Being House Document No. 15, Treasury Department, Twenty-eighth Congress, second session.

Page 4 (from Commissioner's report):

"I regret to communicate that the errors and frauds in the surveys in this State, which occurred in 1837 and 1838, in townships north and west of Saginaw bay, have not yet been fully corrected.

\* \* \* It must have been as much a source of vexation here, as

to the citizens there, that these troubles should have interrupted their onward course."

Page 48 (from Commissioner's report):

"In Michigan, the resurvey of the defective and erroneous work north and west of Saginaw bay, to the extent authorized by your instruction of the 18th April, 1843, has been completed."

"Your instructions of the 20th ultimo directs the continuance of the resurveys in that quarter to a limited extent, and contemplates their completion when the necessary appropriations shall be made by Congress. The resurveys now ordered have been com-  
mitted to one of my most skillful and efficient deputies in Michigan."

And on page 50:

"With this report I transmit the usual exhibits, together with the estimates for the fiscal year ending June 30, 1846, to wit: "

And on page 52:

C.

Estimate of the amount of disbursements for surveying the public lands and for contingent expenses at the office of the surveyor general of Ohio, Indiana, and Michigan for the fiscal year ending June 30th, 1846.

"For resurveying 44 townships of erroneous and defective surveys west of Saginaw bay, Michigan (say 70 miles each), at \$2.75 per mile..... \$8,500.00 "

*Report for the Year 1845,*

Being Senate Document No. 16, Twenty-ninth Congress, first session.

Page 44 (from surveyor general's report):

"In Michigan, since the last annual report of this office, twelve townships of the erroneous and defective surveys, north and west of Saginaw bay, have been resurveyed, and copies of the maps thereof were transmitted to the general and district land offices early in the present year." Says also that work will be put under contract "as soon as practicable, so far as the appropriation of ten thousand dollars, made by the act of the 3d of March last, will pay for it."

And on page 48:

"The estimates and exhibits herewith enclosed are as follows, viz: "

And page 49:



A.

Estimate of the amount of disbursements for surveying public lands and for contingent expenses of the office of the surveyor general of Ohio, Indiana, and Michigan for the fiscal year ending June 30th, 1847.

- 110 "For resurveying fourteen townships of erroneous and defective surveys west of Saginaw bay, Michigan, say 70 miles each, at \$6 per mile..... \$5,880"

*Report for the Year 1846,*

Being House Document No. 9, Treasury Department, Twenty-ninth Congress, second session.

Page 40 (from surveyor general's report):

"In the southern peninsula of Michigan, thirty-two townships of erroneous and defective surveys, north and west of Saginaw bay, have been resurveyed, and the township plats made and transmitted to the General Land Office. \* \* \* There is reason to believe, however, that many of the surveys heretofore made in the northern portion of the peninsula are erroneous and fraudulent, and that resurveys will have to be made to a very considerable extent. Examination ought now to be made of the suspected districts, in order that resurveys, if necessary, may be made before the sales of lands shall embarrass the proceeding."

*Report for the Year 1847,*

Being Executive Document No. 2, Senate, Thirtieth Congress, first session.

Page 75 (from surveyor general's report):

"The more the old surveys in the northern part of the peninsula are examined, the more certain it appears that a large portion of them has been so loosely and fraudulently made, that extensive resurveys will be necessary. The woods and swamps in that part of the peninsula are so difficult to get through, and the price paid for the original work there was so small, that no surveyor could possibly do his work well, and receive a fair compensation for his services."

Names some deputies, who, "finding it impossible to do their work well without losing money by their contracts, returned, as surveyed, many lines, and even whole townships which had not been surveyed at all; and, as this office had no means of detecting the fraud thus committed, their work was received and paid for at the usual rates."

- 111

*Report for the Year 1848,*

Being Executive Document No. 12, House of Representatives,  
Thirtieth Congress, second session.

Page 82 (from surveyor general's report):

"Two contracts were made last spring, one dated the 30th of March and the other the 29th of April, for examining and resurveying, if found necessary, certain old surveys in the vicinity of the Maskego and Manistee rivers, in southern Michigan, that were believed to be more or less erroneous and fraudulent. The extent of such resurveys was not, however, to exceed in all five hundred and ninety-five miles, so that the cost thereof at the prices named in the contracts, should be somewhat less than the amount of the unexpended balance of the appropriation of the 10th of August, 1846, for the correction of erroneous and defective surveys in this State.

Field-notes of the resurvey of four townships, which were originally surveyed by John P. Allard, under his contract dated 16th of July, 1838, and of part of a township originally surveyed by John Brink, under his contract dated the 18th of February, 1839, have been returned, examined and approved under the first-named contracts. From these returns, and the testimony of the men who assisted the surveyors in making the resurveys which they describe, it appears that Allard's field-notes of his survey of those townships are almost wholly fictitious and fraudulent, and that Brink's are, to some considerable extent, of the same character.

Mr. Allard had three contracts for subdividing in this portion of Michigan, dated the 28th of July, 1837, 16th of July, 1838, and the 26th of January, 1839, embracing in all thirty-two entire townships, the resurveys of which, as returned by him and approved at this office, are probably all of the character above described.

112 Mr. Brink had two contracts, one dated the 18th of February, 1839, for the subdivision of about twelve townships lying on the Manistee river, and the other dated the 13th of December, 1839, for the subdivision of twelve townships lying on the headwaters of the Maskego river, making together about twenty-four townships, the survey and returns of which are probably similar in character to the work of his above mentioned.

There are other surveys in this portion of the State that are strongly suspected, but enough is not known at present to justify the expression of any positive opinion against them. The diagram marked L, accompanying this report, shows the names of all contractors who subdivided in southern Michigan, north of the Grand, Chippewa, and Tetibawassee rivers, together with the dates of their contracts and the location and boundaries of their respective districts.

The surveys of Mr. Allard above mentioned, embrace a large tract of very good country, and ought to be corrected, if erroneous, before any sales are made therein. I have, therefore, made an estimate of ten thousand dollars for this purpose, which will be found in the accompanying statement K, added to the estimate for

the coming year, which were sent you with my letter of the 28th of September last. The maximum price of the work therein stated is as low as experience will allow."

K.

Page 104 :

Estimate of appropriations required for surveying the public lands and for incidental expenses in the district of the States of Ohio, Indiana and Michigan for the year ending June 30th, 1850.

"For the correction of erroneous and defective surveys in southern Michigan, at a rate not exceeding \$6 per mile. \$10,000 "

113 And after like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 71.

GENERAL LAND OFFICE,  
WASHINGTON, D. C., *February 17, 1849.*

Hon. A. Felch, Senate U. S.

SIR: In accordance with your request of this morning, I this day sent a letter to the Hon. S. Breese, as Ch. of the Comm. of Public Lands, requesting him for the reasons therein given, to have introduced into the general appropriation bill, an item of \$10,000 "for the correction of erroneous and defective surveys in southern Michigan, at a rate not exceeding six dollars per mile."

With great respect, your ob't serv't,

RICHARD M. YOUNG,  
*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 72.

GENERAL LAND OFFICE,  
WASHINGTON, D. C., *February 17, 1849.*

Hon. S. Breese, Ch. Com. Pub. Lands, Senate U. S.

SIR: My attention has been called to an item in the annual report of the surveyor general at Detroit of \$10,000 for the correction of erroneous and defective surveys in southern Michigan. This item was not included in the annual estimates from the sur. gen'l on which those from this office were based, and hence is not embraced by the latter. As there is no doubt, however, of the expediency and necessity of this appropriation, I respectfully request that it may be inserted in the general appropriation bill in the following form, to wit:

14 For the correction of erroneous and defective surveys in southern Michigan, at a rate not exceeding six dollars per mile, ten thousand dollars.

With great respect, your ob't serv't,

RICHARD M. YOUNG,  
*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read:

EXHIBIT 73.

SURVEYOR GENERAL'S OFFICE, DETROIT, *July 10, 1849.*

SIR: On the 23d of last month I received from your predecessor two letters dated the 4th ult., one relating to the appropriation made at the last session of Congress for the payment of salaries in this office, and the other relating to his apportionment of \$23,240 for surveys, and to the appropriation of \$10,000 for the correction of erroneous and defective surveys in this district for the year ending on the 30th of June, 1850.

In reference to the latter, he suggests "that the deputies who may be entrusted with the correction of the erroneous surveys be especially instructed to re-establish all the original lines and corners where they can be clearly identified, and, where they cannot, to re-survey them in strict accordance with the original field-notes, apportioning all errors and discrepancies of course and distance among the boundaries of sections affected thereby."

In reply to this suggestion, I beg leave to say that from examinations that have been made by William A. Burt, Esq., within the last three months, it appears that most of the field-notes originally returned to this office by H. Nicholson, N. Brookfield and J. Brink, as containing a true description of surveys made by them under their respective contracts, dated 20th of July, 1838, 30th of Nov.,

1839, and 13th of December, 1839, are fictitious and fraudulent. In many of the townships examined more than three-quarters of the lines therein have never been run and marked at all, and where lines were found they were frequently so crooked and so far out of the way from where they should be, that I deem it much better, as well as less expensive, to make an entire new survey, than to attempt to join new lines to the old ones, which, after the best that can be done, will make a patchwork that will inevitably be grossly erroneous.

The districts above referred to are all bounded on the east by the principal meridian, and lie between townships No. 17 and 24 N, in the State of Michigan. They may be seen marked out on the diagram of surveying districts which accompanies my last annual report.

Mr. Burt is still in the wilderness pursuing his examinations in the middle and eastern portion of the northern part of the southern peninsula, and Orange Risdon, Esq., another of my deputies, is making similar examinations in the western portion of the same peninsula, between Muskego river and the straits of Mackinaw. The compensation that these deputies are to receive has not been agreed on, but is to be such as you may see fit to allow when you have seen the services performed by them.

I consider such an examination as they are making indispensable necessary to enable the Government to know what frauds have been committed by surveyors in Michigan, that they and their

sureties may be prosecuted as soon as possible, while something yet may be collected of them to pay the expense of correcting their work. I knew, also, that such an examination would be highly useful in determining where and how the appropriation of \$10,000, before referred to, would be expended to the best advantage. I therefore accepted the offer of the services of Mr. Burt and Mr. Risdon for these purposes, without waiting for special authority from the Commissioner to do so, and hope what I have done may meet your approbation.

Mr. Risdon has not been heard from since his arrival at the place where he is to commence his examinations, and nothing  
116 new is, therefore, known about the character of the surveys in the districts near Lake Michigan: but I have returns from Mr. Burt up to the 3d of last month, and the surveys of every district and of almost every township examined by him previous to that date proved to be fraudulent, as before stated.

Very respectfully, your ob'd't serv't,

LUCIUS LYON,  
*Survey'r Gen'l.*

Justin Butterfield, Esq., Commissioner of the General Land Office.  
(July 16, 1849. Mr. L. Wilson.)

After like offer, objection, ruling and exception, defendant's counsel read extracts from the report of the Commissioner of the General Land Office and surveyor general for the year 1849 as

#### EXHIBIT 74.

##### *Report for 1849.*

Page 267 (from surveyor general's report):

"No contracts have been made for the resurveys under the appropriation of the last session of Congress, for the reason that to enter into such contracts understandingly, it was necessary to procure more full and definite information in relation to the character of the defective surveys than has been heretofore in possession of this office. For this purpose, after writing your predecessor on the subject, William A. Burt and Orange Risdon, Esqs., two experienced and faithful deputies, were employed and furnished with copies of the plats of about two hundred and eighty townships, which they were requested to examine, as far as practicable, and to report the results of their examinations for your consideration.

"The district assigned to Mr. Burt extended from the south boundary of township seven north, in range one west, north and west to Grand Traverse bay of Lake Michigan, and that assigned to Mr. Risdon extended south from that bay to the  
117 Grand river.

"Nothing has been heard from the latter, but from Mr. Burt field-notes have been received, describing examinations made by him in districts originally surveyed by the following persons, viz:

Robinson Thomas, C. W. Christmas, Joel Wright, Henry Nicholson (two districts), J. N. Higbee, Noah Brookfield, John Brink, Henry Brevoort, Jr., and James H. Mullett, John P. Allard and Sylvester Sibley, and John Hodgson, which districts are numbered, on the accompanying diagram (marked P), 2, 5, 3, 11, 25, 16, 35, 36, 37, 27 and 28, and contain in all, one hundred and sixty-one townships.

"From these examinations, which were made only in a part of each district, but still far enough to determine the character of the work, it appears that, in the surveys returned by Messrs. Thomas, Wright, Higbee and Sibley and Hodgson, embracing seventy townships, the lines, as far as examined, have nearly all been run and marked, as represented in the field notes, but the returns of surveys in the other seven districts, embracing ninety-one townships, are grossly fraudulent—the greater portion of the field-notes thereof being wholly fictitious, or descriptive of lines and corners that were never established.

"For a more particular account of the surveys examined by Mr. Burt, see statement N.

"There are one hundred and seventy townships in the southern peninsula of Michigan, north of the Grand and Saginaw rivers, that have been returned to this office as surveyed by the persons who committed the frauds there described. Out of these and the fraudulent surveys of other persons, whose work has not been examined, it is probable that at least one hundred and fifty townships will require to be resurveyed in this peninsula. This work should be done as soon as practicable, for the examination of Mr. Burt has developed the fact that, in the country between the heads of the Tettabawassee river and Grand Traverse bay, there are large tracts of good land, which, now that they are known, are likely soon  
118 to be settled for farming purposes. The cost of the resurveys that will be required in this part of the State will be about fifty thousand dollars—only a small portion of which can ever be collected on the bonds given by the delinquent deputies for the faithful performance of their contracts. It so happens that, in every case but one, the security afforded by these bonds is deemed to be insufficient or doubtful. They were considered good when given, and most of them would have been good at the present time but for some unfavorable change in the pecuniary circumstances of the parties since they were entered into. Instead of profiting by their frauds, as they expected, the delinquent deputies are all now poor. Their condition, in this respect, is a striking illustration of the immutable, heaven-taught truth, that 'riches fraudulently acquired pass away, or are dissipated so that the parties themselves know not by what means, whereas others are enriched thereby.'

"By reference to the papers M. and P., it will be seen that the frauds above mentioned were all committed several years before I took charge of this office. I have now to perform the disagreeable duty of referring to and exposing a similar fraud committed last year by one of my deputies, residing, then, in this city, in whose integrity I, in common with the whole community, had the fullest confidence. The deputy alluded to is Sylvester W. Higgins, for-

merly chief of the topographical department of the geological survey of Michigan, and afterwards receiver of public moneys in the United States land office at this place, who is now in California.

"In examining the returns of six townships surveyed by him last year, discrepancies were discovered in his field-notes of township 50 north, range 36 west, and township 50 north, range 37 west, in this State, which induced the suspension of his account for the survey of those townships, until his work could be examined on the ground, and its correctness ascertained beyond all doubt. This duty has been performed, under my instructions, during the past summer, by William Burt, a competent deputy, whose integrity has never been questioned. He has this day returned from

119 his work, and from his report of examinations made in each of the six townships above referred to, it is now fully ascertained that the field-notes of the survey of those townships, which were returned to this office and sworn to by Mr. Higgins, are in many particulars false, and that his surveys on the ground are exceedingly erroneous and fraudulent. He appears to have run and marked most of his lines, and to have established all, or nearly all, his section and quarter-section corners, but his field-notes cannot be depended on as giving either the true courses or lengths of those lines, or the cardinal points towards which they were run, nor can their truth be relied on in anything. They describe all the east and west lines as run random, and corrected back so as to be straight from corner to corner of sections, as required by instructions, when, in fact, they have not been corrected at all, but are almost invariably left crooked, and the corners on them out of place. This may serve as a fair sample of their character, as well as of the character of the work itself. All that he has done is worse than useless, because, in addition to the labor of making an entire new survey, it will now be necessary to find and cut out corners that he has established.

"The surveys made by him in previous years have not yet been examined, but there is reason to apprehend that they are of a similar description. They appear well on paper, but it must not be forgotten that the real character of surveys can only be known by the field-notes when these notes are strictly true, and that where the notes are false, if they are made up with care, there is no way by which their falsity can be detected, except by examination of the surveys on the ground. \* \* \*

"It is due to Judge Burt and to his son William Burt, the deputies who made the examinations before mentioned, to say that they appear to have discharged the unpleasant duty assigned them in the most faithful and impartial manner. A proof of impartiality may be seen in the fact that the former is one of the sureties of Henry Nicholson, for whom he will probably have to pay nearly three thousand dollars, in consequence of his own report.



*Description of Contracts under which Townships have been Subdivided in*

No. of districts on diagram.	Name of deputy.	Residence of deputy.	Name of sureties.	Residence of sureties.
* * 5 * * * * 16	* * Charles W. Christ- mas. * * * * Isaac N. Higbee..	* * * * * * * Michigan . . . . .	* * * No sureties . . . . . No bond. * * * * James W. Tabor.	* * * * * * * Clinton county, Mich.
* 25 * * 36	* Henry Nicholson. * * * John Brink . . . .	* Northville, Mich.. * * * Northville, Mich..	* * B. H. Rowland and J. Cram. * * * John Mullett and B. F. Hall.	* Northville, Wayne county Michigan. * * * Detroit, Mich. . . .
* 37 * * *	* Henry Brevoort, Jr., and J. H. Mullett. * * *	* Detroit, Mich. . . . * * *	* John Mullett and J. Hodg- son. * * *	* Wayne Co., Mich. * * *

NOTE.—The original contracts for the subdivision of districts marked A, B, C, D, E, F, and G on diagram (now resurveyed) are not on file in this office. They were sent from this office, at Cincinnati, to George C. Bates, Esq., United States district attorney of Michigan, on the 23d of May, 1843, and by him sent, as he states, to the solicitor of the Treasury at Washington.





122

N.

*Description of Townships in Michigan in which Examinations of Original Surveys Have Been Made During the Year of 1849 by William A. Burt, Deputy Surveyor.*

No. of district on diagram.	Name of deputy.	Township.	Range.	Character of surveys.
* 16	* * * * * I. N. Higbee ....	* 18 N	* 4 W	* * * * * Six miles of section lines, including the south boundaries of sections 34 and 35, were examined in the southeast portion of this township, and, as the work was found to have been carefully done, and the random lines corrected according to instructions, it was believed to be fully done, and the random lines corrected according to instructions, it was believed to be unnecessary to carry the examination of Mr. Higbee's survey any further.
* 5	* * * * * C. W. Christmas.	* 13, 14, 15, 16 and 17 N 13 N	* 1 W 2 W	* * * * * Townships 16 and 17 appear to have been tolerably well surveyed, though gross errors and omissions are found in the descriptions of swamps, streams, &c. The lines in the other four townships (where any can be found) are very poorly marked, generally only on one side of the trees, and the random lines were evidently not corrected according to instructions. In many places no lines or corners could be found, especially in townships 14 and 15 north, and in other places the corners that were found were so poorly marked, that it was impossible to identify them. Both lines and corners are generally so far out of place that no use can be made of them in a correct survey; and if the work in the remaining townships that were not examined should prove to be of the same character, an entire resurvey of the whole district, with the exception of townships 16 and 17 north, will be expedient if the quality of the land therein should be deemed good enough to justify the expense that would be incurred, of which there may reasonably be some doubt.
11	Henry Nicholson	17 N 16 and 17 N 17 N	2 W 3 W 4 W	In these townships, as far as they were examined, nearly one-half of the lines and quarter-section corners described in the original field-notes have never been established. The other half of the lines were run, and marked either east, west, north or south, as was most convenient, for the purpose, apparently, of establishing the section corners. Both lines and corners are, therefore,

*Description of Townships in Michigan, etc.—Continued.*

No. of district on diagram.	Name of deputy.	Township.	Range.	Character of surveys.
123				exceedingly irregular and erroneous, as must necessarily be the case when run and established in this manner, without regard to the order prescribed in the general instructions. The work in the remainder of this district is probably of the same character; and if so, an entire resurvey of the whole district will, it is believed, be the cheapest and best means of remedying its defects.
25	Henry Nicholson	18, 19, and 20 N	1 W	This district was contracted for by Mr. Nicholson, in 1838, the next year after he had made his returns of the one described above, and his work in it is found to be no better, but rather worse than it was in that. Examinations were made in every township, and there can be no doubt that it is bad throughout.
		18, 19, and 20 N	2 W	
		18, 19, and 20 N	3 W	
35	Noah Brookfield.	21 N	1 W	In the 7 townships examined in this district, it was found that less than one-third of the lines and corners described in the field-notes returned to this office, had any existence on the ground. The few that could be found were very poorly marked, and so erroneous that an entire resurvey is necessary. To gain a thorough knowledge of the old survey in township 22 north, range 3 west, that township was resurveyed by Mr. Burt, from whose field-notes it appears that the aggregate lengths of all the lines that were run therein, by the original contractor, does not exceed two miles, or about one-thirtieth part of the distance that he was paid for.
		21 and 22 N	2 W	The character of the original survey of this district is found to be similar to the survey of Mr. Brookfield's described above, but the lines in this are better marked than in that, and the proportion of those that have been run is perhaps somewhat greater here than there.
		21 and 22 N	3 W	
		22 N	4 W	
		22 N	5 W	
36	John Brink.....	23 N	2 W	
		23 and 24 N	3 W	
		23 and 24 N	4 W	
		23 N	5 W	
37	Henry Brevoort, Jr., and James H. Mullett....	26 N	1 W	The original survey of this district appears to be no better than the survey of the last two. Township 26 north, range 7 west, has been resurveyed by the examiner, who states that he made diligent search for the lines and corners of the old work, and that he believes that the whole lengths of the lines in the townships that were actually run and marked by the contractors for that
		25, 26 and 27 N	2 W	
		25 and 26 N	3 W	
		25 and 26 N	4 W	

*Description of Townships in Michigan, etc.—Continued.*

No. of district on diagram.	Name of deputy.	Township.	Range.	Character of surveys.
		25 and 26 N	6 W	work, do not exceed fifteen miles. The few lines and corners that they established are, generally, so far out of their proper places as to be worse than useless.
		25 and 26 N	7 W	
*	* * *	*	*	* * *

LUCIUS LYON,  
*Surveyor General.*

Surveyor general's office, Detroit, November 5, 1849.

124 The document marked "P" is a map accompanying the foregoing report, showing the territory covered by contracts in Schedule "N," showing town 18 north, of range 3 west, to have been covered by Henry Nicholson's contract, and township 18 north, of range 4 west, to have been covered by I. N. Higbee's contract.

Estimates of appropriations required for surveying the public lands and for incidental expenses in the district composed of the States of Ohio, Indiana, and Michigan for the year ending June 30, 1851.

For resurveying and correcting erroneous and fraudulent surveys in Michigan, at a rate not exceeding \$6 per mile (in addition to the unexpended balance of former appropriations for this purpose). . . . . \$20,000 00

After like offer, objection, ruling and exception, defendant's counsel read

### EXHIBIT 75.

#### *Resurveys in the State of Michigan.*

By acts of 3d March, 1845, and 10th August, 1846, appropriations were made for correcting surveys west of Saginaw bay, in Michigan, which, on examination, have been found to be defective or fraudulent. These surveys are more fully described in letter of 18th April, 1843, to the sur. gen. N. W. of the Ohio, vol. 9, p. 155, of sur. gen.'s letters. After the corrections of the surveys named in this letter had been completed, the sur. gen. at Detroit contracted with Orson Lyon and Orange Risdon for the correction of other surveys in lower Michigan to the extent of 595 miles, or \$3,200. The contracts for this work were dated 30th March and 29th April, 1848, respectively, but were not received at this office until the 21st Au-

125 gust following, when it was supposed the field operations of the deputies had progressed too far to admit of anything being done by the department in the premises. The sur. gen. was, however, written to on the 22nd August, the day after the receipt of the contracts, as follows, to wit:

"Aside from the question whether the appropriations made by the acts of 1845 and 1846 for resurveys west of Saginaw bay can be applied to the payment of this service, of which there is great doubt, inasmuch as those appropriations were based upon a specific report relative to the surveys returned by the Rosseaus, Coon, Reilly & Gist.

"I would suggest that the comptroller will pass no account for resurveys of this character without an account being reported at the same time against the deputy who executed the original survey, that suit may be brought against him and his sureties for the expense thus incurred in revising and correcting his work. No such account can be reported by this office without the clearest and most ample testimony from disinterested sources of the fraudulent character of the work. Hence, these cases must be accompanied by such testimony, and, in future, before ordering a resurvey in any case, you will confer with this office and furnish a copy of the evidence before you as to the character of the original work.

"It would also be well, in all such cases, to ascertain whether the land is settled upon or worth surveying, and whether it would command a sale if resurveyed, as it is by no means expedient that a double expense should be incurred for surveying valueless lands, as this would appear to be from your reports."

Sur. Gen. Lyon appears to have had his attention directed to the condition of the surveys in the southern peninsula of Michigan as far back as 1846, and in his report of 7th November of that year he expressed the apprehension that many of those surveys would prove to be of a similar character to those west of Saginaw bay, and recommended an early examination of the same.

In his next annual report, dated 5th November, 1847, he again refers to this subject in the following manner, viz:

126 "The more the old surveys in the northern part of this peninsula are examined, the more certain it appears that a large portion of them has been so loosely and fraudulently made that extensive resurveys will be necessary. The woods and swamps in that part of the peninsula are so difficult to get through, and the price paid for the original work there was so small that no surveyor could possibly do his work well and receive a fair compensation for his services. Most of the deputies who were residents of Michigan intended, it is believed, to do their work well as it could be done, for the price that they received for it; but others, and especially the greater number of those whose residence was in other States, among whom were Geo. W. Reilly of Ohio and R. H. and I. A. Rosseau of Kentucky, finding it impossible to do their work well without losing money by their contracts, returned as surveyed many lines, and even whole townships, which had not been surveyed at all, and as

this office had no means of detecting the fraud thus committed, their work was received and paid for at the usual rates."

Again, in his annual report of 24th November, 1848, he urges the necessity of an examination and a correction of these surveys, and submits an estimate therefor of \$10,000, with the request that the same may be included in the estimate of the department.

This request was not complied with, but on the 17th February, 1849, a special application was made by this office, at the instance of the Hon. A. Felch, to the chairman of the Committee of Public Lands of the U. S. Senate, to cause an item of ten thousand dollars to be inserted in the appropriation bill "for the correction of erroneous and defective surveys in southern Michigan, at a rate not exceeding six dollars per mile." That application was granted, and an appropriation of \$10,000 made accordingly by act of 3d March, 1849. Under this appropriation, the sur. gen. was, on the 4th June, 1849, instructed as follows, to wit:

"The instructions heretofore issued will govern you in making these contracts, and I would further suggest that those deputies who are intrusted with the correction of the erroneous surveys in  
127 southern Michigan be specially instructed to re-establish all the original lines and corners where they can be clearly identified, and, where they cannot, to resurvey them in strict accordance with the original field-notes, apportioning all errors or discrepancies of course and distance among the boundaries of sections affected thereby."

Before entering into any contracts for resurvey under this appropriation, the sur. gen. deemed it proper first to cause a thorough examination to be made of the suspected surveys; and for this service he appointed William A. Burt and Orange Risdon, two experienced deputies, furnishing them with copies of the plats of about two hundred and eighty townships, which they were requested to examine, as far as practicable, and to report the results of their examinations for the consideration of the department. In his report of the 5th November, 1849, the sur. gen. thus refers to this subject:

"From these examinations, which were made only in a part of each district, but still far enough to determine the character of the work, it appears that in the surveys returned by Messrs. Thomas, Wright, Higbee, and Sibley and Hodgson, embracing seventy townships, the lines as far as examined, have nearly all been run and marked as represented in the field-notes: but the returns of surveys in the seven other districts, embracing ninety-one townships, are grossly fraudulent, the greater portion of the field-notes thereof being wholly fictitious or descriptive of lines and corners that were never established."

The surveys thus reported fraudulent were returned by C. W. Christmas, Henry Nicholson (two districts), Noah Brookfield, John Brink, Henry Brevoort, Jr., and James H. Mullett and John P. Allard. These surveys appear to have been all examined by Deputy Burt, Risdon, the other deputy, at that time having made no return; and with reference thereto the sur. gen. reports as follows, viz:

"It is due to Judge Burt, and to his son William Burt, the deputies who made the examinations before mentioned, to say that they appear to have discharged the unpleasant duty assigned to them in the most faithful and impartial manner. A proof of impartiality may be seen in the fact that the former is one of the sureties of Henry Nicholson, for whom he will probably have to pay nearly three thousand dollars in consequence of his own report."

In the same report the sur. gen. estimated that about one hundred and fifty townships in the lower peninsula of Michigan would require to be resurveyed, at a cost of about fifty thousand dollars, and requested that an appropriation of twenty thousand dollars should at once be asked for with which to commence the work. This request, however, was not received until after the estimate of the department had been made up, and hence the amount called for was not included in those estimates.

To supply the omission thus caused, additional estimates were made up on the 23rd April, 1850, including this item, and sent to the Hon. D. S. Dickinson, chairman of the Finance Committee of the Senate, and the Hon. T. H. Bailey, chairman of the Committee of Ways and Means of the House, with the following statement explanatory of the same, to wit:

"The item for resurveys in the southern peninsula of Michigan has been inserted since the original estimates were sent in from this office. It was not included in those estimates for the reason that this office was not then advised of the existence and extent of the fraudulent surveys in that region, the report of the surveyor general having been delayed by the examination of those frauds. The necessity for those resurveys is urgent, as the land is attracting great attention from the value of the timber on it."

And again, on the 6th August, 1850, letters were written to the Hon. T. H. Bailey, of the House, and Hon. A. Felch, chairman of the Committee on Public Lands of the Senate, urging the necessity of this appropriation. These applications resulted in securing an

appropriation of \$20,000 (by the act of 30th September last) of which the sur. gen. was advised by letter of the 17th October

last, in which he was specially instructed to "contract with none but good, practical surveyors of good, moral character, and such only as are known to you (him) to be of this character, or are so certified by men of respectability and standing, who are willing to unite in their bonds." Up to the present time only one contract has been received at this office under these appropriations, the sur. gen. deeming it important, before prosecuting the resurveys, to cause further examinations to be made, with the view of ascertaining the nature and extent of the existing frauds. The results of these examinations have been in part reported to this office, and go far to sustain the previous reports from the Detroit office and the opinions based upon those reports. It would appear, then, that every step in this matter, so involved and full of difficulty, has been taken with the utmost deliberation, and that nothing has been done which did not seem to be absolutely required by a proper regard for the public interest. And if anything could add to the

character of Deputy Surveyor William A. Burt, by whom the gross frauds in question have been exposed, as a man of stern integrity, would it not be the fact that he has exposed those frauds at a pecuniary sacrifice of about three thousand dollars? Before closing this statement, it is thought proper briefly to refer to the frauds in the surveys west of Saginaw bay, in Michigan. A knowledge of these frauds was first communicated to this office by a joint resolution, passed on the 1st February, 1842, by the legislature of Michigan, and by the governor of the State sent to the President of the United States, who, on the 16th February, 1842, referred it to the department for consideration.

As the returns in this office all appeared fair, it was recommended that the sur. gen. at Cincinnati (E. S. Haines) be called upon for a report upon the character of the surveys referred to in the resolution. The President directed that course to be pursued, and the requisite instructions were accordingly issued to that officer. In reply, he expressed surprise at the allegations made, and

130 suggested that an experienced deputy surveyor, say Mr. Wm. A. Burt or Mr. John Mullett, be employed to go on the ground and examine each township (or a sufficient number of them in each district to satisfy himself concerning the whole), and ascertain and report the exact condition of the surveys in each.

Mr. Burt was sent to the field, and on the 1st August, 1842, Sur. Gen. Johnston (Haines's successor in office) reported the result of his investigations as follows, viz:

"The report of Mr. Burt, you will see, furnishes abundant proof that the surveys examined by him are grossly defective and fraudulent. *And there is a high probability that the remaining townships in the same contracts not examined by Mr. Burt are as defective as those which he inspected.*"

It would seem, then, that as far back as 1st August, 1842, the frauds now developed were, in part at least, suspected by the surveyor general at Cincinnati.

MOSES KELLY, Clerk.

General Land Office, February 14, 1851.

After like offer, objection, ruling and exception, defendant's counsel read extracts from the report of the Commissioner of the General Land Office for the year 1850, as

EXHIBIT 76,

Being Executive Document No. 2, Senate, Thirty-first Congress, second session.

Page 2 (the number of acres surveyed and remaining unsurveyed):

Michigan—Surveyed to September 30th, 1850.....	30,629,076
Unsurveyed to September 30th, 1850.....	5,366,444

Page 3 (from Commissioner's report):

"Every effort has been made by the surveyor general and this



131 office to prevent errors and frauds in the public surveys, and for this purpose stringent regulations have been adopted and explicit instructions issued. Notwithstanding these precautions it has recently been discovered that in some of the surveys executed many years ago, especially in the northern part of the southern peninsula of Michigan, errors and frauds were committed, and a few of like character are of more recent occurrence.

"These evils cannot be wholly remedied by existing legislation or instructions. They are caused by the want of skill or integrity on the part of the deputies, and can only be prevented by an active surveillance in the field—for which, and the expenses attending it, there is no authority of law—or by the employment of such deputy surveyors only as are of unimpeachable character and high scientific attainments. Since the discovery of the errors and frauds alluded to, special instructions have been dispatched to the surveyor general to employ none but such as are of tried integrity and unquestionable abilities, and additional regulations have been adopted in regard to their bonds in order to insure, as far as possible, a reimbursement to the Government if the surveys now in progress of execution should not come up to the requirements of the department."

And on page 16:

"Under the act passed by Congress on the 28th of September, 1850, 'to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' it was decided, with your approbation, to charge the surveyors general of the several States in which their offices existed, in the first place, with making out lists of the lands granted to those States by that law, and where these offices were abolished, to devolve that duty on the land officers of the respective districts. Full instructions have been made out and transmitted for this purpose; and by those instructions the act of Congress will be carried out, the right to all the swamp and overflowed lands unfit for cultivation secured to the States, and the interests of the Government protected."

132

G.

"For resurveying and correcting erroneous surveys in the lower peninsula of Michigan, at a rate not exceeding six dollars per mile..... \$10,500 00"

Page 67 (from surveyor general's report):

"The twenty-three townships situated north of the third correction line in the Lower Peninsula have been put under contract; but, owing to great irregularities in the township lines, it was found impracticable to close the work east of the meridian upon the old surveys north of it, and on this account two of the townships were left unsurveyed. In the other seven townships (of the twenty-three before mentioned) lying east of the meridian, the original surveys of the township lines were found so defective and erroneous that a resurvey of the whole was indispensably necessary to enable the deputies to proceed with the subdivisions; and although three dis-

tricts of subdivisions, made in 1840, join these townships on the north and east, no mention seems to have been made or notice taken of these defects and errors, and it is found from the reports of the deputies that the whole of the old work, both township lines and subdivisions north of the third correction line and east of the meridian, will have to be resurveyed. The two districts south of this, subdivided by W. R. Coon and T. Pattison in 1839, and heretofore reported as fraudulent, are in no better condition than the surveys last named, as appears from the report of Mr. Burnham, who has just returned from examinations in that region, which will be forwarded with his account in a few days.

"A district of ten townships situated near Saginaw bay, subdivided in 1837 by Henry Nicholson, has been resurveyed and corrected during the past season by William A. Burt, Esq., who was one of the sureties in the bond of Mr. Nicholson, given to insure the faithful performance of his contract. Five of the townships were entirely resurveyed, and the other five corrected and  
133 completed, so that the whole district is now in good condition; and it will be unnecessary for the United States to prosecute further the suit against Mr. Nicholson or his bondsmen in this contract. Mr. Burt's field-notes of these resurveys and corrections have not yet been received, but his returns are daily expected.

"Resurveys have also been made in other districts that were reported fraudulent in the field-notes of examinations made last year, but as those examinations were made in a superficial manner, giving, it is true, sufficient evidence of the imperfect character of the original surveys in each district, but not in every township, the deputies intrusted with the resurveys were required before commencing the resurvey of any township, to ascertain the character of the old surveys, and not to make any resurveys where they were unnecessary. Twelve townships have been resurveyed under one contract in the district subdivided in 1839 by Messrs. Sibley & Hodgson, situated near Grand Traverse bay. The field-notes of three of these have been returned to this office, and the account, with the plats, have been forwarded to your office. The field-notes of the remainder are daily expected.

"Other townships have been resurveyed in the same district, as also in the district north of the third correction line, embracing the point of land on the west side, and forming Grand Traverse bay, but the deputy is still in the field, and it is not known how far he has progressed with his work.

The lands in this vicinity are valuable, both from their fine agricultural character, and because of the easy access to navigable water; a settlement has already commenced on the west side of the bay, and considerable land has been sold in the vicinity; but the bad condition of the surveys renders it very difficult to identify the tracts purchased, and has deterred many who would otherwise have purchased from entering these lands. It is reported by persons residing at this settlement that the surveys north of the third correction line are very defective, so that the same difficulty is there experienced in locating the land purchased."

- 134 Estimate of appropriations required for surveying the public lands and contingent expenses in the district composed of the States of Ohio, Indiana, and Michigan for the fiscal year ending the 30th of June, 1852.

For resurveying twenty-five townships in the Lower Peninsula, averaging 70 miles each, at a rate not exceeding \$6 per mile. . . . . \$10,500 00

Schedule D, annexed to the report, is a map of the State of Michigan, entitled, sketch of the public surveys in Michigan, and shows state of surveys in Michigan, and indicates the towns that are defectively surveyed. 18, 3 W is indicated on the map as defectively surveyed.

After like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 77.

SURVEYOR GENERAL'S OFFICE, DETROIT, *March 5, 1851.*

SIR: The season having nearly arrived for the letting of new contracts for surveys, and an appropriation being already made for resurveys in this district, I beg leave to submit the following for your consideration, and would respectfully ask your instructions in relation to the subject.

The diagram herewith enclosed exhibits the districts already surveyed in this State, representing by the yellow shade those districts which have been examined during the past year, and reported fraudulent; by the green, those reported by Wm. A. Burt in 1849; by the pink, the Lynns' work resurveys made the past season, and by the red, the resurveys and corrections made by Wm. A. Burt, Esq.

The district embracing Grand island, although surveyed but a few years since, has been found, upon thorough examination (as will appear by reference to the copies of the field-notes of these  
135 examinations forwarded to your office), to have been done in a very imperfect and fraudulent manner, and it is thought important that these surveys should be corrected during the coming season. It is important also that the defective surveys in the Lower Peninsula should be adjusted in some way: either by an entire resurvey, or, as has been done by Judge Burt in the Nicholson contract, by re-establishing and correcting the old surveys as far as practicable, and where any part of the original survey is wanting, supplying the deficiencies by new work.

The latter method is preferable, and perhaps indispensable, where sales have been made in a township, but in other cases where the old surveys are very defective and the lines and corners much out of place, it is believed an entire new survey should be made without reference to the old work, except to mention such portions of it as came within the observation of the deputy making a survey, for the expense and labor of re-establishing and correcting old lines is found to be nearly, if not quite, equal to that of making

an entire resurvey. The office work, on account of these fraudulent surveys, is in an unsettled and unfinished condition. Some of the records and transcripts of the field-notes of these defective townships in the Lower Peninsula have been made, but of late all office work in these defective districts, and indeed in all the Lower Peninsula (except the resurveys), have been suspended.

The instructions contained in your letter of the 22nd August, 1848, in relation to resurveys, say: "No such account (accounts for resurveys) can be reported by this office without the clearest and most ample testimony from disinterested sources of the fraudulent character of the work. Hence these cases must be accompanied by such testimony, and in the future, before ordering a resurvey in any case, you will confer with this office, and furnish a copy of the evidence before you as to the character of the original work."

In compliance with the above instructions, therefore, I submit the following proposed plan for resurveys for the coming season, the evidence in all the cases having been furnished in the reports and field-notes of deputies who have made examinations:

First, it is proposed to resurvey or correct the surveys in the Grand Island district, and to complete the resurveys near Grand Traverse bay. Secondly, to proceed with the other fraudulent districts, as far as practicable, with a view to the completion of all the unfinished surveys, so that the office work connected with the surveys in the Lower Peninsula may be completed.

In the instructions from your office of the 17th October last, it is suggested that no township should be subdivided where the greater part of it is unfit for cultivation, unless it contains valuable mineral.

It is not always easy to determine the character of a township before it is surveyed, and there are few instances where the greater part of a township is unfit for cultivation in the surveys yet to be made in this State, except in the mineral region. The district of 24 townships mentioned in my estimate for surveys the coming season, however, judging from the returns of the surveys in that vicinity, may be to some extent of the character mentioned, but it is thought proper to complete the survey of these townships during the present season, so that there may be no impediment in the way of carrying on and completing the office work in the Upper Peninsula.

When those surveys are completed there will be no interruption in the Upper Peninsula surveys as far as range 21 west, and if all the surveys contemplated are completed during this season, there will be less than 80 townships remaining unsurveyed in that portion of the State.

Very respectfully, your obedient servant,

CHARLES NOBLE,

*Surveyor General.*

J. Butterfield, Esq., Commissioner.

Endorsement: See instructions to surveyor general, June 25, 1851.

137 After like offer, objection, ruling and exception, defendant's counsel read extracts from the reports of Commissioner of the General Land Office and surveyor general for the year 1851 as

## EXHIBIT 78.

*Report for the Year 1851.*

Page 12 (from Commissioner's report):

"The rectifying of the defective and fraudulent surveys heretofore reported to Congress, and for which the necessary appropriations have already been made, together with the survey of the islands of Saginaw bay, Lakes Huron and Michigan, will be the concluding work in that district prior to the closing of the surveyor general's office, which shortly thereafter may be expected under the act of 12th June, 1840. The correction of the defective surveys alluded to is a work designed to be performed with all the precaution necessary to protect the interests of purchasers interspersed throughout them, and to make the old lines and corners available wherever found."

And on page 18:

"The execution of the law granting the swamp and overflowed lands unfit for cultivation to the States respectively is occupying great attention. So far as these lands lie within the districts over which the surveyors general exercise jurisdiction, I beg leave to refer to their reports in regard to the action thus far. In numerous instances, it is found difficult to accurately detect, from the plats and field-notes of survey, the precise lands assignable to the State under the grant. \* \* \*

"Whenever the selections in any one land district shall be completed and closed, and the lists finally approved, and not before, it is designed to issue the patent required by the act; and any lands previously sold or otherwise disposed of, prior to the date of approval of the lists, will be rejected and excluded, in accordance with the views recently expressed by this office, and which have received the sanction of the department."

Page 50:

"In giving out contracts the present year, special reference was had to the completion and closing of the surveys in the Upper Peninsula at an early day. \* \* \* nothing remained to be done in this State but the resurveying of such districts heretofore reported to this office as fraudulent, as the department may think proper to authorize."

Page 51:

"The appropriation of last year, and the balance of the appropriation of the year previous, for resurveys, is unexpended, in consequence of instructions from the General Land Office, growing out of certain suits commenced, under direction of my predecessor, against deputies supposed to be implicated in the frauds committed in the public surveys, which suits are yet undetermined."

"Exclusive of these contracts now under adjudication and those

now resurveying under your instructions the present season, embracing a few townships near Grand Traverse bay, it is not known to this office that any pressing necessity exists for further resurveys but it is deemed of the greatest importance that such resurveys as are necessary to be made in this district should be ordered with as little delay as practicable. \* \* \* Whether the suits instituted against the deputies before referred to are finally determined in the favor of the Government or not, it is important to the Government, as well as to the settlers, that the lines be run and so defined that the purchaser will be enabled, without difficulty, to find his land.

"It is undoubtedly true that, in much of the country above referred to, no reliable lines can be found, and the purchaser, under the existing state of things, must be subject to needless trouble and endless lawsuits, if finally left by the Government in its present condition, and it is believed that for all these purposes, the

139 appropriations already made by the last Congress for resurveys, in addition to the unexpended balance of former appropriations, will be ample and sufficient if it can be applied to these objects, and it would seem that the public interest in this regard should not be prejudiced, nor the resurvey so necessary to the settlement of the country delayed in consequence of these jurisdictional proceedings, which, however determined, can make no less important the necessity of the speedy completion.

The injury to the Government in consequence of the frauds committed in the surveys in this State, consists not only in the pecuniary loss on account of the surveys, but in the false reports of the character of the country, some of the finest portions of which being represented in the original surveys as indifferent, second and third rate land, and sometimes swamp, have been rendered unsalable for many years."

"The accompanying paper, marked 'E,' contains the description of certain townships copied from the field-notes of the original surveys, and descriptions of the same townships from the field-notes of the resurvey. These are instances where the original surveyor traversed the country and must have known their true character, but other cases might be cited where it is known that the deputy who reported the original survey was not upon the ground, and his report, therefore, being an entire fraud, was not worthy of comparison."

Page 53:

"Considerable progress has been made in preparing a list of the swamp lands, under your instructions of 21st November last, in accordance with the act of Congress entitled, 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' approved September 28, 1850. Some time was consumed, however, before this work was commenced, in corresponding with the authorities of this State on the subject of the manner in which these lands should be located, and more on account of having to compare and correct a large share of the plats in this office by the original field-notes. There is much yet to re-

140 tard the rapid progress of this work, as the swamps in this



State generally do not lie in large connected tracts, but are scattered throughout the townships, involving the necessity of laying off almost every section into forty-acre lots, after the boundaries of the swamps have been defined in accordance with your instructions. This labor is attended with many perplexities, as it very frequently occurs, either on account of the carelessness and inattention of the surveyor, or from some other cause, that but one intersection of a swamp is noted, and sometimes the intersections are so intricate as to render it impracticable to apply the rule laid down in your instructions, while in other cases, where a swamp is entirely isolated, there seems to be no other way of defining the boundary properly except by a survey."

After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 79.

SURVEYOR GENERAL'S OFFICE, DETROIT, *Feb'y 10th*, 1852.

SIR: Your letter of the 25th Nov. last, requesting me to "prepare a plan of operation," etc., in reference to the resurveys of this State, was duly received.

I have prepared a diagram, which is herewith forwarded, representing the townships that have been resurveyed, with those districts that have been officially reported as fraudulent or defective, but as much has already been said in reference to this subject, and especially in relation to the value and importance of the country in which these defective surveys are situated, it does not appear necessary to recapitulate the reasons which have been urged for the rapid prosecution of the work of resurvey. A very interesting report has been submitted to this office, however, which contains much valuable information relative to the extent and resources of that region, a copy of which I enclose herewith.

141 The plan which it is proposed to pursue in the prosecution of the resurveys, should they be ordered without reference to the suits that are pending before the U. S. court, will be substantially the same as proposed in my letter of 5th March last. It may be thought desirable, however, to exclude the Higgins district in the Upper Peninsula from resurvey the present season, and carry on as far as possible to completion the resurveys in the Lower Peninsula, beginning with the district west of Saginaw bay as of the first importance—it being situated in a country where the sales are constantly making—and continuing with the districts nearest Grand Traverse bay until all are completed. If the surveys in the Northern Peninsula are carried on as proposed in my estimates, it may be necessary to enlarge, to some extent, the field force of this office, and it will be necessary to do so if the programme of rules proposed by you, enclosed with your letter of 25 June last, are to govern in the further prosecution of the surveys. These rules seem to be of a restrictive character, and intended to correct or remedy evils heretofore practiced in executing the resurveys, but it does not appear that the practice of this office has been in conflict with the principles therein contained. On the contrary, the precautions which

belong to the faithful performance of this important service have been, it is believed, as far as possible enforced. Nevertheless, experience has taught, particularly in this service, that no instructions, however minute, can meet the exigencies of every case, and much has to be left to the wisdom, judgment and skill of the deputy.

The employment of codeputy surveyors in these resurveys, where the common compass exclusively is used, involves some practical difficulties, and, it would seem, does not meet the objects designated, for in the region proposed for resurvey, the preliminary examination having been made (and no resurveys could be ordered in the absence of such examination), the appointment of codeputies upon the same contract would be merely assigning portions of the same contracts to each deputy, not increasing the testimony as to

142 any particular part of the survey, for it could not be expected that both deputies will work upon the same lines, nor even in the same township, perhaps, for this would multiply field books and involve perplexity in the returns, which has already, in some of last year's surveys, been a source of some annoyance to this office.

In the mineral region, where the solar compass is used, it is necessary to improve the time during fair weather in running random lines, otherwise much time would be lost when the sun could not be seen. For this reason the employment of an assistant deputy or random-line surveyor may facilitate the field operations of the contracting deputy, and secure, perhaps, more perfect work on the ground. Nevertheless, in accordance with your instructions, this practice has been discontinued in the surveys of the past year, and each deputy has performed his surveys in his own proper person.

The design of this office has been to disconnect the examinations from the resurveys; and although the expense of the Government has been somewhat increased, yet no resurveys could be ordered without such preliminary examination, nor could it be expected that a deputy would enter the field with the expectation of receiving no compensation for his examinations unless he were assured of sufficient work in the resurveys to compensate him for such extra services.

Moreover, the maximum price allowed for resurveys, six dollars per mile, would hardly be sufficient to cover all the expenses without reducing very materially the price for resurveys. Where the districts are situated near the coast, the maximum price has not been allowed, but in the interior, where much extra labor is required in packing, etc., it is believed six dollars a mile is no more than a fair compensation, including, of course, the necessary examinations which are required in each township to ascertain what course should be pursued in its connection.

One great cause, it is more generally believed, of the imperfections and irregularities in the old surveys in this State, is the inadequate compensation granted for such services; and in  
143 order to secure good work on the ground, some allowances should be made for accidents and difficulties which frequently



occur in the field, consuming the time of the deputy, and (if his compensation is small) compelling him to perform his work hastily, and perhaps imperfectly.

If further examinations of surveys are deemed necessary therefor, aside from such as one made by the resurveying deputies in each township, I would still recommend that they be disconnected from the resurveys—new surveys—as an entire resurvey.

In reference to such townships as contained lands that are occupied or sold, I would suggest that instead of respecting the corners which define such lands in townships where the surveys are defective or fraudulent (for the location of these lands has usually been made and the boundaries defined by county surveyors), the resurvey of the township be made according to the regular form recognizing these sales as private claims, surveying their boundaries to the satisfaction of the owners, and closing the lines of the new survey upon them in the same manner as upon the Indian reserves, etc.

The general instructions to the deputies of this office refer especially to the designation of corners to be established in resurveying, and are sufficient for the government of the deputy in any regular survey; but special instructions are always necessary, and must be specific in proportion to the character of the survey and the experience of the deputy.

These general remarks are submitted for your consideration, and may be regarded as exhibiting my plan of operations for the resurvey of the present season, and the instruction proposed for the government of, and this would be much more satisfactorily accomplished, as recommended in my annual report, by the appointment of an inspector of surveys. This matter is all before your department, however, and is left for your decision and instructions.

The returns of some of the deputies exhibit great defects in some of the township lines, and however necessary it may be "to respect and retrace them," yet it frequently becomes necessary to supply material deficiencies, and even to change the position of some of the boundaries, which would, if established, entirely destroy the "connectedness" of the surveys. It would therefore appear that in any of the defective or fraudulent surveys the marks of the original survey should not be respected, but obliterated, making entire new surveys of such districts and connecting them with the adjoining regular surveys so as not to interrupt the regularity of the townships and ranges. But in townships in which sales have been made, where any portion of the original survey can be found, it may be desirable that it should be respected and established; and yet the remeasurement and re-establishment of old lines require more time and labor and involve as much expense, when such lines have to be connected, with deputies entrusted with the work.

I am, sir, very respectfully, your obedient servant,  
CHARLES NOBLE,

*Surveyor General.*

J. Butterfield, Esq., Commissioner General Land Office, Washington, D. C.

Endorsed: See letter of instructions to the surveyor general bearing date 8th March, 1852.

The report referred to is as follows:

*Copy of a Report Made by A. S. Wadsworth, Deputy Surveyor, on the Character of the Country Between Grand River and the Straits of Mackinaw, Michigan.*

DETROIT, December 24th, 1851.

Hon. Charles Noble, surveyor general:

I would offer the following report, having reference to the unsold U. S. lands in the northern part of this peninsula.

In locating and surveying Indian lands within the last four years from Grand Traverse to the straits of Mackinaw, along the lake shore and also by the Cheboygan valley from Little Traverse bay, and having the present season been twice from Saginaw to Grand  
145 Traverse and from Grand Traverse to Grand river, I shall offer such information as I have derived from personal observation.

This entire section of country has until recently been considered low, level and swampy, with pine, cedar, balsam and hemlock ridges, cold, sterile and unfit for cultivation. The furthest possible from this are the facts in reference to this region. From Saginaw northwest, the first 30 miles along the Tittabawassee river the country is rich in soil and timber. After passing the mouth of Tobacco river we enter an extensive swamp that extends northeasterly towards the Huron shore, and is from 12 to 15 miles in width, with an occasional ridge of beech and maple lands. Continuing northwest, we enter pitch-pine plains, dry, sandy, and elevated: this, with an occasional belt of white and Norway pine, continuing to Houghton lake and past the headwaters of the Muskegon river. The character of the country at once changes as we descend the western slope. Instead of light and sandy soil, we here find a rich black sand and gravelly loam, supporting a heavy growth of sugar maple, beech, elm, lynn, etc., with every requisite to warrant an agricultural settlement. The country being more elevated than in the southern part of the State, gives rapidity to the numerous spring brooks and streams which water this extensive region. After attaining sufficient size for hydraulic purposes, these streams become still more rapid, affording an incalculable amount of water power. This is true of the White river, Muskegon, Pere Marquette, Sable, Platte and Elk rivers. The Cheboygan river is less rapid, with a deep, strong current. Leaving the straits of Mackinaw south, the first 20 miles is unequal. In the Cheboygan valley is good farming land, but between this and the "Village of the Cross," westerly near Point Wah-go-shaw, much of the country is broken, hilly and swampy. After passing the head of Little Traverse bay, we enter an extensive tract of superior farming land, extending 50 miles to near the head of Grand Traverse and easterly to near the

meridian, of 1,000,000 acres area after deducting the inland  
 146 lakes. These lakes, to wit, Bear lake, Walloon lake, Elk  
 lake, and Lake Was-wah-go-mink, with others, are naviga-  
 ble, affording salmon, trout and whitefish in abundance, their  
 waters clear as crystal, and forming considerable streams as they  
 debouch. Near the head of Grand Traverse bay is a belt of pine  
 land, extending southeasterly, of four townships. On the 24 No-  
 vember last we left the Grand Traverse bay to open a trail 100  
 miles to Muskegon, on the range line between ranges 11 and 12  
 west.

From Grand Traverse south the first 50 miles is unsurpassed (as  
 a road route), there being in the distance less than 50 rods of  
 swamp, through sugar-maple groves and elm intervals, soil a black  
 sand and lime gravel, with decaying vegetation; in some places,  
 clay springs and streams numerous.

This last-named 50 miles, assuming a breadth of 30 miles on  
 either side, has an area of 1,920,000 acres, nearly all of which is  
 susceptible of settlement. This description is applicable to the  
 country between Grand Traverse bay and Lake Michigan, and to  
 the peninsula within the bay, embracing 192,000 acres.

The last fifty miles on this range line is pine land, with beech  
 and maple, having less than one mile of swamp. On the White  
 river, west of this line, are eight townships of beech and maple  
 land. It is estimated that at least two-thirds of this last-named  
 50 miles is first-rate farming land, which gives 1,280,000 acres. To  
 recapitulate:

Lands east of Grand Traverse bay.....	1,000,000
Lands west of Grand Traverse bay.....	192,000
First 50 miles on range line.....	1,920,000
Last 50 miles on range line.....	1,280,000
Lands in the vicinity of the Cheboygan.....	500,000
Total.....	4,892,000

This gives nearly five million acres of unsold desirable farming  
 land, without estimating pine land or the farming lands on the  
 eastern slope and along the Huron shores.

The country from Grand river to the straits of Mackinaw,  
 147 is clearly a limestone region. An outcrop of this rock is  
 found at Grand Rapids, at Muskegon, on the Pentwater river,  
 at the mouth of Grand Traverse bay, and at many places on the  
 coast from thence to Little Traverse bay. Shell mail is also found  
 in great abundance at Grand Traverse, and shell petrification to an  
 unusual extent in the lime rock.

The climate at Grand Traverse bay is similar to the New Eng-  
 land States, but milder than in a corresponding latitude.

The finer kinds of fruit succeed well at the Traverse bay with-  
 out protection. Six bushels of peaches were gathered this season  
 from four trees four years old from the pit, and the English cherry  
 trees from the Buffalo and Cleveland nursery have wintered suc-

cessfully. The Indian apple orchards, which are quite extensive in this region, have bore abundantly for the last four years. The corn crop (this year light) is there considered a sure crop.

Respectfully submitted.

A. S. WADSWORTH,  
*Deputy Surveyor.*

After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 80.

GENERAL LAND OFFICE, *March 8th*, 1852.

Chs. Noble, Esq., sur. gen., Detroit, Mn.

SIR: I have to acknowledge the receipt of your communication of 10th ult., by the hands of Mr. Frost, your chief clerk, on the subject of the resurveys in Michigan, which it is designed to undertake the coming season.

The surveys about to be undertaken will be designed to remedy two classes of defects and frauds.

*First class—Incomplete surveys.* Where a *portion* only of the lines in a township is found to have been actually surveyed, and wherein some lines have been run & some corners established, which lines and corners can now be found. That portion of such original surveys which shall have been determined to be thus available by retracing the same, is to remain undisturbed, & be respected, whether there have been sales made therein or not, and the residue of such township must be surveyed as if originally, but made to connect in all particulars with the former.

*Second class—Fraudulent surveys.* Where there is no evidence found in the field of any good intent on the part of the deputy surveyor to comply with the terms of his contract, no system being manifest in the field-work, & an entire absence of marks & monuments whereby to designate the corners, & where no lines are traceable.

In this class of cases the lines will have to be run & corners established, as if originally, and all the old irregular lines & corners must be most carefully & thoroughly *obliterated*, but their connections with the true survey must be taken & exhibited in the notes so that they may be represented on the township plats & thus be never likely to mislead, but in cases where, amongst such irregular surveys, there has been any tract of land *sold* which is *settled* upon & *occupied* according to the irregular lines of the original survey, if the same are found, they are to be particularly respected, *provided* the occupant *insist* on having the same *preserved*; but in case he shall not so insist, then, with his expressed *written consent*, duly *attested*, the deputy surveyor may disregard such old irregular lines, and establish new & regular lines as the boundaries of such section.

But when an old irregular section corner is insisted on being *maintained* by the occupant of the tract, such, as a necessary conse-

quence, will have also to be respected as governing the boundary of the adjacent sections, the lines of which will close on such corner. The marks on all such "bearing trees" as are not adopted, must be effectually & indelibly obliterated, and the new "bearing trees" will of course be marked with the usual initials N. B. T.

149 The work must be inspected before payment therefor. The inspection will be to satisfy the surveyor general that the work has faithfully & effectually been executed. The marks at the corner boundaries, here and there, to sufficient extent, are to be inspected. The facts that the marks on the old "bearing trees" which are not adopted in the resurvey, have been effectually obliterated, is to be inquired into. All this is to be done to such extent as shall produce entire satisfaction as to the *general character* of the work. Such examinations should be so timed as to commence about the time when a contract is so far executed that the examination will conclude shortly after the surveying is finished.

Such inspections are regarded as an expense incidental to the service, and will have to be paid for by a *per diem* allowance. You are requested to estimate the *minimum* allowance *per diem*, including all expenses, at which such examinations can be made, and submit the same for determination by the department.

I am very resp'y, your ob. s't,

J. BUTTERFIELD,  
*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read extracts from the reports of the Commissioner of the General Land Office and surveyor general for the years 1852 to 1858, inclusive, as

#### EXHIBIT 81.

#### *Report for the Year 1852.*

Page 74 (from Commissioner's report):

"I beg leave to call your attention to the interesting reports of the several surveyors general herewith submitted, showing succinctly the extent of the operations of that branch of the service during the past year, the present condition of their districts, and surveys proposed for the ensuing season.

"Their office labors, it will be perceived, have been rendered extremely onerous by the selection of the swamp and overflowed lands and examinations in relation to erroneous and defective surveys.

\* \* \* The adjustment of the grant of swamp and overflowed lands has progressed slowly, notwithstanding great diligence and activity in the force engaged on it. The selection of the lands embraced by these grants were entrusted to the surveyors general of several States where those offices existed, and to the registers and receivers of the land districts in those States where the office of the surveyor general had been abolished. \* \* \* It was well understood that many of the lands had been surveyed in dry seasons or when the ground was frozen, and hence the field or descriptive notes

would not indicate all that were of the character embraced by the grant. In cases of this kind the officers were authorized to receive and act on such responsible and reliable testimony as should be produced by the authorities of the States. No reports have yet been received from some of the officers, though urged repeatedly to hasten their action, that the grant may be closed.

"Much difficulty has also been experienced because of the numerous conflicts that have grown out of this grant. The suspension of the sale and disposal of all the public domain was not contemplated by these laws, and could not be made unless specially directed by Congress; and hence numerous entries and locations have been made of lands claimed by the States under these laws. The grant took effect from the dates of the acts making it, and therefore, in numerous cases, conflicts of title arise which have to be adjudicated by the department. To relieve this difficulty as far as practicable, I suggest that where such lands have been purchased, authority be granted for paying over the purchase-money to the State on a relinquishment by the governor, or other official appointed by him for that purpose, of all the right of the State in and to such  
151 lands; and where those lands were located by warrants and scrip, to authorize the State to locate a like amount elsewhere upon a similar relinquishment.

"Exclusive of this difficulty, however, the labor in adjusting these grants is very great, as all the lists returned have to be carefully compared with the tract books; all selections where the land was disposed of previous to the passage of the laws annulled, and those since, suspended. All the selections are then posted; lists of them are prepared and sent to the land offices, and also to the governors, with diagrams exhibiting the lands embraced by the list; and, on the request of the governor, the patents are then issued."

Annexed to the report *or* schedules; among others, Schedule G, as follows:

"Estimates of the appropriations for the surveying department for the fiscal year ending June 30th, 1854.

"To defray the expenses of examining and correcting old, imperfect, and defective surveys in the northern part of the lower peninsula of Michigan..... \$3,000"

And on page 158 (from surveyor general's report):

"The labor of making up and copying the lists of swamp lands has been much greater than was at first anticipated. Difficulties were encountered, growing out of the imperfect condition of the records and plats, occasioning much trouble, and adding materially to the labor necessary to complete the reports. The lists, with the annotations of the registers at Kalamazoo and Ionia, have already been forwarded to your office. The other lists, as has been stated in late communications from this office, have been completed and forwarded to the registers at Detroit, Flint, and Sault Ste. Marie. The register at Flint has returned the list for the Saginaw district,

with his annotations, and it will be forwarded to your office as soon as some discrepancies, which have been noticed, are adjusted. The lists of the Detroit and Lake Superior land districts have not yet been returned. There will yet be considerable additional labor connected with these lists when the plats of new surveys are completed. The resurveys of the past season, some of the townships of which are situated in both the Grand River and Saginaw land districts, will require new lists, in conformity with your instructions of the 4th ultimo. These lists, which will be supplemental, will be made up as soon as practicable after the plats of the resurveys are made."

Page 159:

"Under instructions from the Commissioner of the General Land Office, two contracts were made in April and May last, for the resurvey of fifty-nine townships situated in the Lower Peninsula, north of the 3rd correction line, \* \* \* thirty-nine townships have been completed, and the field-notes of thirty townships returned to this office, and twenty townships still remain; most of which are in progress of survey, and it is hoped will be completed and notes of them returned to this office previous to January next. \* \* \* The work which has been finished has been executed in a manner highly satisfactory, and fully confirms the opinions heretofore expressed in former reports from this office, that much of the country heretofore represented in the original surveys as indifferent, second, and third-rate land, and swamp and lake, is proven, by the resurveys, to be among the choicest land in the lower peninsula of Michigan. And the increased number of acres in some townships made by the resurvey will be more than sufficient when sold to defray all expense of their resurvey, besides adding confidence and certainty to the titles of the settlers, and the saving of an almost endless litigation. In some instances, in the original survey, lakes, covering many hundreds of acres, have been laid down upon the maps where none existed, thus covering with water a large area of beautiful country, which, but for these frauds, might long since have been opened for sale and settlement.

"There are upwards of sixty townships, situated east of the meridian, which have been reported fraudulent, and no doubt exists in reference to the bad condition of the surveys. \* \* \* The old districts of subdivisions situated east of the meridian and north of the third correction line have been partially examined, and there is reason to believe that the surveys therein are, to a great extent, fraudulent. Errors and frauds in the surveys west of the meridian and north of the third correction line are, from time to time, detected and reported to this office by the inhabitants."

*Report for the Year 1853.*

Page 74 (from Commissioner's report):

"The delivery of patents has been retarded to a considerable extent by the adjustment of the swamp-land grant, in which much



difficulty has been experienced, owing to its great extent, the imperfections of the field-notes of the early surveys, the numerous conflicts that have risen, and the complexity of the questions involved. These difficulties are being overcome by the regulations prescribed for the adjustment of that grant, the promptitude and energy of the governors and other officers of the several States, and the able and efficient action of the surveyors general and district land officers. That the States may obtain all the benefits contemplated by these acts as heretofore construed, the regulations require that such of the public land, at the passage of the law, as is shown by the field-notes, or proved by competent testimony, to be of the character specified in the grant, shall be certified to the States as their property. Further legislation, however, will be required to facilitate the final adjustment of this grant, and will be recommended under its appropriate head."

"The arrangement of the swamp selections has also materially interfered with the adjustment of the recent railroad grants, for the reason that all lands of the class first mentioned being embraced in a law of previous date to the other, had to be ascertained before selections could be made understandingly for the railroads."

154 Page 115:

Estimate of appropriations for the surveying departments for the fiscal year ending June 30th, 1855.

"For continuing the examinations and corrections of old, imperfect and defective surveys in the lower peninsula of Michigan, north of the third correction parallel, and east and west of the meridian, being forty-eight townships, at a rate not exceeding six dollars per mile. . . . . \$20,160"

Page 116 (from surveyor general's report):

"The sum of \$5,000 having been appropriated for the examination and correction of original surveys in the Northern Peninsula, I appointed for that service George H. Cannon, Esq., a deputy who has ever been found to be energetic, capable and honest in the discharge of the duties with which he has been intrusted by this office. The district assigned to Mr. Cannon extended from range one to eighteen west. He was instructed to make such examinations, in each contract, of the original surveys within these limits, as would enable him to report upon the general accuracy and character of the work. He was more particularly instructed, however, to first direct his attention to the examination and correction of a district contracted for survey in 1851, by William Hemmingway. Mr. Hemmingway made his returns to the office in the usual form; but in the platting and inspection of his field-notes, defects were found of such a character that explanations were required of him in reference to them; which, not proving to be satisfactory, it was thought to be judicious to suspend his account until the accuracy of his survey could be tested upon the ground. Orange Risdon, Esq., one of the oldest and most experienced deputies of this office, was accord-



ingly instructed to repair to the district for that purpose. Mr. Risdon reached the field and began and prosecuted for a few day his work, when, having the misfortune to lose the needle to his compass, he was compelled to relinquish it, the season being too far ad-  
 155 vanced to permit of supplying his loss and of returning to the field. Enough was elicited from Mr. Risdon's report, however, to more strongly confirm the suspicions that had been entertained of the imperfect, defective and fraudulent character of Mr. Hemmingway's survey. Under such circumstances it was thought proper to instruct Mr. Cannon to make a careful examination of the whole work, and if any portion should be found to be fraudulent to such an extent as to require a new or resurvey, to make such re-survey; but where found to be only defective in part, to supply such defects—in short, to do what might be necessary to render the whole survey perfect and complete. Mr. Cannon has just returned from the field, with the notes of the resurvey and correction of four of the townships. After completing the work of four towns, the work was of such a complex and undecided character, that he considered it advisable to consult with this office before proceeding further. In the townships resurveyed and corrected, portions of the lines were run and found to be established; other lines were run, but seemed never to have been corrected, while other portions of the survey were found to be entirely fraudulent, no lines ever having been run. In the corrections and resurvey, whenever the original lines were, in the main, found to be sufficiently accurate to be evident that their adoption would not be a source of difficulty hereafter, they were adopted, with such corrections as were necessary, it being thought best to avoid, as far practicable, a multiplicity of marks and lines upon the ground, which might hereafter tend to produce annoyance and confusion. Examinations in the remaining townships in this district were made to a sufficient extent to show that a resurvey and correction will be necessary; and Mr. Cannon will be instructed to again repair to the field as early in the spring as practicable, for that purpose, and to make the additional examinations that he has this season been compelled to omit. So much time was consumed in making the examinations in this district, that but little time was found in which to inspect other surveys. Partial examinations  
 were made, however, in a district surveyed by Francis Coleman,  
 156 and one surveyed by George E. Adair, in both of which the work was found to be fairly done. In the Lower Peninsula, ten townships that were included in last season's contracts for resurvey were left unfinished. These townships were recontracted, and nine of them have been completed, and the field-notes of seven townships returned. It is expected that the survey of the remaining townships, together with the field-notes not yet received, will be returned in a few weeks."

Page 118:

"An inspector of surveys was appointed for the purpose of making examinations of the original surveys in several districts situated north of the third correction line and west of the meridian. The returns made to this office, as the result of such examinations, show

that the surveys in all of the districts examined are, to some extent defective, and in two of them—one surveyed by James H. Muller and the other by John Hodgson—so much so, that an entire resurvey will be necessary.”

“The examinations in the four districts embraced in my present estimate represent that in many of the townships no lines have ever been run. They also serve to show, as all examinations of defective survey in this State have ever done, that the field-notes of the original surveys are no index to the true and real character and value of the country of which they purport to give a faithful description. Instances are numerous where valuable agricultural and pine lands are found to exist in place of what has been reported as dense, and in some cases, impassable swamp or nearly worthless lands. This fact alone renders it a matter of importance to the Government to take such steps as will enable the lumberman and the agriculturist to become not only better acquainted with the character and resources of the country, but to also afford them an opportunity to purchase, and to determine the position and location of their lands. Where valuable lands and timber have been represented as worthless swamps, it is only necessary for the Government to make known the true character and value of such lands, and to offer the needed facilities for determining their location, to be amply repaid for all the expense they will incur in such work by the increased sales they will thereby be enabled to make.”

Page 119:

“The settlers and purchasers have from time to time represented to this office that in many cases the public surveys could not be found, and they were unable to identify and determine the locations and boundaries of the lands they had purchased, and that the amount of sales by the Government was seriously affected by the absence of, and worthless character of, the surveys. There are two districts, embracing 17 townships, situated in the Lower Peninsula, not included in my present estimates, that it is known will be required to be resurveyed. There is also a district of 18 townships, situated immediately south of the third correction line and west of the meridian, that, it is feared, on examination will also show should be resurveyed.”

“It is contemplated to make an examination of this district, with a view to ascertaining the true character of the work.”

There is attached to the said report Schedule I, as follows:

Estimate of appropriations required for continuing the resurvey in the lower peninsula of Michigan for the fiscal year ending June 30th, 1855, to wit:

For the resurvey of thirty-six townships north of the third correction line and east of the meridian, and twelve townships north of the third correction line and west of the meridian—in all, forty-eight townships, averaging seventy miles each, at a rate not exceeding \$6 per mile..... \$20,160 00

*Report for the Year 1854.*

Page 9 (from Commissioner's report):

"The surveyor general of Michigan has successfully overcome most of the difficulties incident to the fraudulent surveys heretofore made, and is pursuing the only plan by which the evils resulting therefrom can be remedied."

158 Page 57 (from surveyor general's report):

"I have estimated for resurvey and correction thirty townships situated in the Lower Peninsula, all of which have been examined, and the condition of the original work in them has at different times been communicated to your office. I have, in addition to these thirty townships, estimated for the resurvey and correction of a district of about thirteen full townships in the Upper Peninsula. In estimating for resurveys I have endeavored, as far as practicable from the information that I can derive upon the subject, to select from among those towns that it is known need to be corrected such as will most benefit the public to have resurveyed first. As a brief statement of the general character of these defective and fraudulent surveys, together with the necessity existing for their speedy correction, was made in my last annual report, it is perhaps unnecessary to again lay the facts there stated before you. Experience has shown that those remarks are, and will continue to be, applicable to all resurveys that it may be expedient to undertake in this State. It will be necessary to make other resurveys than those now estimated for, but they have been left for another season, as I believe the true policy in carrying on this work to be to undertake no more than can be contracted to deputies whose experience, etc., have been tested and approved."

Page 58:

"The making up of the lists of swamp and overflowed lands within this State, with the exception of a few townships, the surveys of which have but recently been approved, has been completed, unless it should be thought advisable to make out new lists of such townships as may hereafter be resurveyed."

Page 65:

"Estimate for resurvey in the Lower Peninsula for the year ending June 30, 1856, \$10,800."

159

*Report for the Year 1855.*

Page 184 (from surveyor general's report):

"After being advised of the passage of the act of August 4, 1854, making an appropriation for continuing the resurveys in this State, I immediately, notwithstanding the lateness of the season, offered contracts to several of the most efficient and experienced deputies of this office, with a view to press forward to completion the resurveys for which that appropriation was made, and for the further reason that I desired to make full the usual progress in, and to complete, field-work, by giving employment only to such deputies

as had satisfactorily proved to the office their capacity and integrity. Owing to the near approach of cold and boisterous weather and to the fact that most of them found it impracticable to leave their business without more timely notice, I was only able to make a contract with Mr. George H. Cannon, for the resurvey of a district of seventeen townships and fractional townships before the setting in of winter, and the close of navigation would make it necessary for him to leave his work until the opening of the following spring. Unusually cold and continuous rains, together with sickness and death in his party, compelled him to abandon his work after resurveying one full and one fractional township. As early in the spring of 1855, as it was practicable to enter the field, Mr. Cannon resumed his work, and contracts were made as fast as practicable with deputies of experience, for the resurvey and correction of fifty-six townships and fractional townships. All entered upon their duties, confident that their long practical experience and familiarity with the character of the work to be performed would enable them to complete their several contracts prior to this date."

Page 186:

"It has been usual for the department to furnish lithograph diagrams of the State, representing the work as reported by this office for a previous year. Upon these the work of a subsequent year could be marked, bringing it up to the date of the report of which it was returned as a portion. The resurveys have canceled all the old office work that may have heretofore been done in such townships, consequently they erroneously represent the real condition of office labor in those towns. It being impracticable to correct these diagrams and cause them to represent the present condition of the work in the office, I have prepared an entire new map of the State, by which means the errors of the old diagram have been obviated."

I.

*Statement and Estimate of Uncompleted Field-work in the State of Michigan on the First Day of December, 1855, Exclusive of that under Contract, as Represented by Statement A, Accompanying this Report.*

Townships.	Ranges.	Character of work.	No. of townships and fractional townships.	Remarks.
*	*	*	*	It is intended to contract all this work as fast as appropriations will admit, and experienced and reliable deputies can be found to undertake surveys of the character of these now remaining to be done.
*	*	*	*	
*	*	*	*	
*	*	*	*	
18, 19 and 20 north.	1, 2 and 3 west.	Resurvey . . .	9	
*	*	*	*	
*	*	*	*	

From information just received, it is supposed that the resurvey of about twenty townships and fractional townships now under contract and not embraced in the above list, will necessarily be left until next season.

LEANDER CHAPMAN,  
*Surveyor General.*

Surveyor general's office, Detroit, November 1, 1855.

161

K.

*Statement of the Condition, Character, and Amount of Office Work to be Done Prior to the Closing of the Office, and a Transfer of the Records to the State of Michigan.*

Character of the work to be performed.	Estimated amount of work.	Remarks.
* * *	* * *	* * *
* * *	* * *	* * *
* * *	* * *	* * *
* * *	* * *	* * *
Original maps to be made from the notes of the present season of resurveys, and from notes of resurveys to be made hereafter.	118 townships and fractional townships.	Will employ 1 draughtsman 280 days.
* * *	* * *	* * *
* * *	* * *	* * *
* * *	* * *	* * *
Making out in triplicate lists of swamp and overflowed lands in townships, of which plats from resurveys are to be made.	.....	It is estimated will employ one clerk 100 days.
* * *	* * *	* * *

LEANDER CHAPMAN,  
*Surveyor General.*

Surveyor general's office, Detroit, November 1st, 1855.

162

M.

*Estimate of Appropriations Required for the Surveyor General's Office Northwest of Ohio for the Fiscal Year Ending June 30, 1857.*

Estimate of appropriations required for continuing the resurveys in the Lower Peninsula of Michigan for the fiscal year ending on the 30th June, 1857, to wit:

For the resurvey of seven townships north of the 3d correction line and west of the meridian, averaging sixty-five miles each, at a rate not exceeding six dollars per mile.....	\$2,730 00
For the correction and resurvey of eighteen townships situated between the 2d and 3d correction lines and west of the meridian, averaging sixty-five miles each, at a rate not exceeding six dollars per mile. ....	7,020 00
	<hr/> \$9,750 00

*Report for the Year 1856.*

Page 207 (from Commissioner's report):

"It has been determined to complete the resurveys of about 10 townships, the greater portion of which are embraced in outstanding contracts, to complete the archives, and then close the office. For the attainment of this object, measures are contemplated so as to be able to turn over the archives to the authorities of Michigan under the act of 12th June, 1840, by the 30th of September, 1857.

Page 240 (from surveyor general's report):

"It is therefore evident that the public surveys in this State can be brought to a close the ensuing summer. That it may not be inferred that, in the opinion of this office, no other defective, imperfect or fraudulent surveys exist in Michigan, than those for the resurvey of which appropriations have been made, it is proper to state that it is well known that there are several contracts in both the Upper and Lower Peninsula of this State in which the surveys are in places

defective, and in some cases fraudulent; but from the partial examination made, it does not appear that defects and frauds exist to such an extent as to make a resurvey indispensable, as has been the case in those townships for the resurvey of which I have heretofore forwarded estimates. In those districts where it is now known that erroneous and fraudulent surveys exist to some extent, the north and south lines are reported by the examiners as generally run, and the quarter and section posts on them as established, although not in all instances as represented by the original notes. Many of the east and west lines have never been run, but the posts governing them being established, they may be supplied by those who find it necessary to use them."

*Report for the Year 1857.*

Page 12 (from Commissioner's report):

"Prior to the passage of the act of 3d March, 1857, the adjustment of the swamp grant was greatly retarded by applications filed on the part of individuals to contest the right of the States to the lands selected. That act, by confirming the selections with exceptions, put an end to the individual contests, and the adjustment is now rapidly progressing. The character and extent of the contest then pending appear in the last annual report.

"The recommendation of the last report is renewed, that a limit be fixed to the time within which swamp selections must be made.

"The adjustment of these railroad grants involves an amount of official labor at least equal to the sale of that quantity of land, the surveys to be operated on being a strip thirty miles wide, the route of which road within which previous sales, locations and pre-emp-tions have to be carefully examined and adjudicated on new rules peculiar to these grants, with a view to equal justice to the grantees, settlers and purchasers.

"The mode of proceeding in this branch of business is as follows:

164 The lands falling within the probable limits of the railroad grant are, upon application, withdrawn from sale or location.

The act of Congress is communicated to the governor of the State; plats of the road are called for, and the general practice has been for the State to accept the grant and transfer the same to incorporated railroad companies. Then the maps of the road, duly certified by the governor under seal, and by the company, are returned to this office, generally on a scale of an inch to a mile, indicating the connection with the sectional lines of the surveys, showing also the exact dates of the survey, and staking off the road on the ground, because from these dates, which must be established by the affidavit of the engineer of the road, the title to the State has legal inception, according to the late Attorney General's opinion.

"If there is a material deflection in the route of the road, an explanation is required, and unless it satisfactorily appears that the line taken is the most direct practicable route between the termini, it is rejected. If the route does not deflect too much between the termini, the map is accepted as the basis of adjustment. The line of the road is then laid down upon our official township plats, with the six and fifteen mile limits of the grant. Then proper diagrams are prepared for office use in the adjudication of pre-emptions, sales, bounty-land locations, and swamp selections.

"These diversified interests falling within the railroad belt are required to be examined, their validity or invalidity tested in connection with the State title under the grant. The ledgers or tract books, where all these interests are required to appear, must be posted up to date, and then we begin the preparation of the lists descriptive of the lands which enure to and are to be certified to the State, the indemnity selections being, under the decision of this office, limited to the State to which the railroad grant is made. When the granted lands for railroad purposes are ascertained and reported, then the residue remaining to the Government are to be brought into market, and this it is the purpose of the department to effect with all practical speed."

165 Page 15:

"Michigan. The original surveys of the islands in the western part of the Lower Peninsula have been made: 4,095 miles of resurveys have been reported during the past year, and, in obedience to the act of March 3, 1857, the office at Detroit has been transferred to St. Paul, Minnesota, and the greater portion of the archives relating to the public surveys in Michigan have been handed over to the authorities of that State; the remainder, not being in a condition for transfer, were removed to the surveyor general's office at St. Paul, and are now in course of preparation for delivery to the Michigan authorities."



"It is difficult to convey an adequate idea of the labor incident to the management of the railroad business. \* \* \*

"Then, with antagonistic interests to these, we have multitude of settlers, old and new, who crowd along the lines of the roads; purchasers at private sale, pre-emptions upon offered and unoffered lands, bounty-land locations, and swamp selections.

"These varied and conflicting interests figure in the adjustment of the claims to the most minute subdivisions of the lands, and require greater care and more labor than are disposed upon their ordinary disposal."

After like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 82.

SURVEYOR GENERAL'S OFFICE, DETROIT, *June 11, 1847.*

SIR: Your letter of the 3d ult., instructing me to report to you the quantity of the swamp land, unfit for cultivation, that has been surveyed and returned as public land in each land district, 169 was duly received, and your instructions shall be complied with as far as practicable. But you are aware that all that can be done is to furnish merely a rough estimate of the quantity in each township, which, at best, can only be an approximation to accuracy.

The old surveys made in this district do not furnish data even sufficient for that; for the extent of the swamps on either side of the lines passing through them, is not noted, either on the plats or in the field-notes.

As the Ohio surveys are not in my possession, my estimates will, of course, be confined to the States of Indiana and Michigan. If not, please advise me, and I will employ Sam'l Williams, Esq., of Cincinnati, to make the estimates for Ohio.

Very respectfully, your ob't serv't,

LUCIUS LYON, *Sur'r Gen.*

Hon. Richard N. Young, Comm'r Gen'l Land Office.

Ans'd 8 July, 1847.

After like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 83.

GENERAL LAND OFFICE, *June 7th, 1853.*

Surveyor general, Detroit, Michigan.

SIR: In adjusting the swamp-land selections in the Grand River district (Mich.), a difficulty has arisen in regard to the proper construction of the supplemental list transmitted to this office, dated December 8th, 1852.

In my letter of 4th Oct. last, the following directions were given: "In those townships resurveyed during the past season, it will be



necessary to furnish new lists in explanation of the former ones, but you will be careful to designate them as having been made in lieu of the former ones."

This instruction appears to have been lost sight of, as the supplemental list above alluded to is simply headed "Supplemental  
170 list of swamp lands in townships resurveyed and platted up to December 6th, 1852, in the Grand River district, embracing some townships not included in former lists," and no further explanation is given. To illustrate the difficulty, I will state that in township 8, range 2 north and west, the selections in sections 2, 15, 18 and 19 are the same in both the original list and the supplemental list, and cannot be regarded in any other light than as double selections. In section 24, the whole section was included in the original list, which, in the supplemental list, the S  $\frac{1}{2}$  of N W  $\frac{1}{4}$ , N E  $\frac{1}{4}$  and S  $\frac{1}{2}$  are the selections.

Now, which is to govern, the original selection or that in the supplemental list? In township 9 N, range 2 west, the selections are in sections 1, 3, 4, 5, 8, 9, 10, 13, 21, 22, 26 and 35 in the original list, while those in the supplemental list are in sections 28, 29, 30, 31, 32, 33 and 35.

The questions, as you will perceive from the foregoing, are whether the supplemental list is to be regarded as only corrective of the former list, or whether it is to be taken entirely in lieu of the original in the corresponding townships.

As the work upon this list has been suspended on account of the foregoing difficulties, I have to request that you will give the matter your early attention, and that you will be explicit in your answer as to the proper construction of said supplemental list.

Very respectfully, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

After like offer, objection, ruling, and exception, defendant's counsel read

#### EXHIBIT 84.

GENERAL LAND OFFICE, *July 29, 1853.*

Register, Detroit, Michigan.

SIR: I herewith transmit you a certified copy of approved list  
No. 1 of swamp and overflowed lands selected as enuring to  
171 the State of Michigan under the provisions of the act of  
Congress approved September 28th, 1850, lying within your  
district.

You will please enter each tract embraced in said list in the proper place on your tract books, as follows: "S E  $\frac{1}{4}$  of N E  $\frac{1}{4}$ , sec. 25, T 2 S, R 1 E, 40 a., swamp-land act 28th Sept., 1850, approved; see list No. 1." You will also note each tract upon your township plats by some convenient marks of reference referring to the words "State, act 28th Sept., 1850," which should be written upon the margin of the plats. This should be done with great care, so as not to injure or mutilate them.

Should you discover any errors, discrepancies or confliotions, you will carefully note and report them to this office, with such explanations as may be necessary to a full understanding of the same.

You will also be particular to advise this office when you have completed the entries above specified, and give as much of your time and attention to this business as the current business of your office will permit.

Very respectfully, your ob't servant,

JOHN WILSON,  
*Commissioner.*

After like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 85.

GENERAL LAND OFFICE, *July 30th, 1853.*

SIR: I herewith enclose you a copy of list A, No. 1, of swamp and overflowed lands selected as enuring to the State of Michigan under the provisions of the act of Congress approved September 28th, 1850, lying within your district, which having been disposed of prior to the passage of said act, are therefore rejected.

It is presumed that you have already entered on your tract books from the list heretofore furnished you by the surveyor general, the fact of the selection by him as swamp lands of the tracts therein reported; you will, therefore, opposite each of said entries, in reference to the particular tracts in the accompanying list, mark the words "Rejected, see list No. 1 A, accompanying letter of Commissioner Gen'l Land Office of July 30th, 1853," so as to show that such portions of the original selections made are not regarded as land enuring to the State under the swamp-land act, the said land having been disposed of prior to the passage of the act making the grant to the State.

You will please acknowledge the receipt of said list, and advise this office when you have completed the entries above specified.

Very respectfully, your obedient serv't,

JOHN WILSON,  
*Commissioner.*

Register, Detroit, Michigan.

After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 86.

GENERAL LAND OFFICE, *Sept. 5, 1863.*

Register at Ionia, Michigan.

SIR: In reply to your letter of the 31st ulto., I have to state that the N E  $\frac{1}{4}$  of S E  $\frac{1}{4}$ , and W  $\frac{1}{2}$  of S W  $\frac{1}{4}$ , sec. 18, and N  $\frac{1}{2}$  of N W  $\frac{1}{4}$ , sec. 34, T 8 N, R 2 W, Ionia district, are confirmed swamp selections, and will hereafter be approved as such to the State. The E  $\frac{1}{2}$  of

S E  $\frac{1}{4}$  sec. 23, N  $\frac{1}{2}$  of N W  $\frac{1}{4}$  sec. 24, and N  $\frac{1}{2}$  of S E  $\frac{1}{4}$  sec. 30, same township and range, were also selected, but will not be approved, the same not appearing in the subsequent list of the surveyor general, which was to supersede the one previously made. They will not be subject to private entry, however, until they shall have been restored to market in the usual way, their selection, though invalid, being regarded as a withdrawal of the tracts from market.

Very respectfully, your ob't s'v't,

J. M. EDMUNDS,  
*Commissioner.*

173 After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 87.

GENERAL LAND OFFICE, *Sept. 19th, 1854.*

Leander Chapinan, Esq., surveyor general, Detroit, Mich.

SIR: I enclose herewith a copy of an affidavit filed in this office by O. M. Barnes, Esq., of Mason, Michigan, in regard to the character of a certain tract of land entered by him at the land office at Ionia, and claimed for the State as swamp or overflowed land, described as follows: W  $\frac{1}{2}$  of N E  $\frac{1}{4}$  of sec. 33, T 2 N, R 2 W.

I have heretofore advised Mr. Barnes that if said land is really of the character contemplated by the act, his entry must be canceled, but that, if the field-notes of the survey do not clearly establish the swampy character thereof, he will be permitted to contest the claim of the State thereto, on the ground of its erroneous selections, and introduce testimony in support of his claim.

From a careful examination of the plat and field-notes, I am satisfied that said records *do not* clearly show that the greater part of each forty-acre subdivision is land of the character contemplated by the act, and if the claim of the State be maintained, Mr. Barnes will have the privilege of contesting the same.

I have to request that you will re-examine the matter, and advise me whether, in your opinion, a valid claim on behalf of the State can be based upon said plat and field-notes.

Very respectfully, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

174 After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 88.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *September 27, 1854.*

SIR: I am in receipt of your communication of the 19th inst., with accompanying papers relative to the W  $\frac{1}{2}$  of the N E  $\frac{1}{4}$  of sec. 33, T 2 N, R 2 W, Mich., which tract is embraced in a list of swamp and overflowed lands that has been made and approved at this

office. In determining the amount and locality of the swamp lands, this office has been governed entirely by a circular from your department, dated November 21, 1850.

Before commencing the work of making up the lists, a correspondence was entered into with the authorities of this State, the result of which was that the field-notes and plats were adopted as a basis upon which the swamp lands were to be determined; those lands have so far been determined upon that basis, and by as judicious and equitable application of the instructions in your circular above mentioned, as practicable. Those instructions state as follows, to wit:

"The following general principles will govern you in making up these lists, to wit, where the field-notes are the basis, and the intersections of the lines of swamp or overflow with those of the public surveys alone are given, those intersections may be connected by straight lines, and all legal subdivisions, the greater part of which are shown, by these lines, to be within the swamp or overflow, will be certified to the State, the balance will remain the property of the Government."

In the majority of instances, in determining the swamp lands of a section, the above instructions may be fully complied with, in different ways, and with very different results, as may be seen by reference to the inclosed diagram of the section and description in question.

175 The course that has been adhered to in making up these lists, where so much discretion must necessarily be exercised, has been to make the connections in a manner that would appear to be most natural and most equitable. In the case in question, there would appear to be three different ways of determining the amount and location of the swamp lands; two of them would make the  $W \frac{1}{2}$  of the  $N E \frac{1}{4}$  swamp land, as now given in the list; the other leaves the  $S W \frac{1}{4}$  of the  $N E \frac{1}{4}$  dry land, but this is the most unnatural manner of connecting the swamp, as it throws the  $E \frac{1}{2}$  of the  $N E \frac{1}{4}$  out of the swamp lands, when the field-notes state the whole of the east line of the tract to be swamp.

The affidavit of Mr. Barnes is undoubtedly correct, but the field-notes of a survey made in 1826 have been taken as a basis to determine whether the tract in question is swamp or not.

It is unquestionably a fact that there are many descriptions of land embraced in the swamp lists that are not now, nor have they ever been, swamp. This must necessarily result from the defective character of any system that can be adopted to determine their location and amount, other than an actual survey of the boundaries of the swamps, which is impracticable. It is not by any means certain that the tract claimed by Mr. Barnes was not swamp at the time of the survey of the township. Thousands of acres in this State are now under cultivation that, twenty-eight years ago, would clearly have come under the meaning of the act of Sept. 28, 1850. The affidavit of Mr. Barnes does not state that the majority of the tract is of a character that it could not, at the time of the survey, have

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

BLO.  
1-1-8

RED  
\*\*\*\*\*

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

been swamp and unfit for cultivation, but merely states that at this time the land is susceptible of cultivation.

The field-notes will, in many instances, prove a poor basis upon which to determine the swamp lands, if the actual present condition of the land is to be brought in question.

If Mr. Barnes, or any other person of respectability, had, before the making up of the list, filed his affidavit here, showing  
176 the character of the tract, it would, under your circular, have been received and adopted in place of the field-notes, but, taking the field-notes and your circular as a basis upon which to determine the swamp lands, I am of the opinion that the tract claimed by Mr. Barnes has been correctly designated as swamp and overflowed land.

I am, very respectfully, your ob't serv't,

LEANDER CHAPMAN,

*Surveyor General.*

John Wilson, Esq., Com'r Gen'l Land Office.

Endorsed: Answered Oct. 6, 1854.

The diagram referred to in the foregoing is as follows :

(See diagram opposite.)

(Here follows diagram marked page 176a.)

After like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 89.

GENERAL LAND OFFICE, *Oct. 6th, 1854.*

Leander Chapman, Esq., surveyor general, Detroit, Mich.

SIR: I am in receipt of your letter of the 27th ulto., relative to the W  $\frac{1}{2}$  of N E  $\frac{1}{4}$  of section 33, in township 2 N, of range 2 W, claimed for the State of Michigan as swamp and overflowed land, and by Mr. O. M. Barnes as a purchaser from the General Government.

I have examined the diagram enclosed by you and the statements made in your letter, and am of the opinion that the indications of swamp as shown on said diagram cannot with propriety be connected in any of the three ways designated by you. They appear to be mere detached pieces of swamp, and that portion of the instructions of 21st of Nov., 1850, quoted by you, was intended to apply only to such bodies of land of that character as are shown  
177 to be such by the field-notes, and when the exterior boundaries of such swamps cannot be accurately ascertained without a survey—the straight lines being compromise boundaries.

Under the circumstances of this case, Mr. Barnes having acquired

a title by his purchase, and there being reasonable room for doubt, as shown by the plat, I have decided to afford Mr. Barnes an opportunity of furnishing evidence, and have so advised him.

He is directed to furnish you with testimony proceeding from such creditable and disinterested witnesses, who are familiar with the mode and manner of surveying and marking the public lands, showing that they have been over and examined the lines of the land in question, and the marks or designations on the corner posts or trees, and that from such examination they have ascertained and know the greater part of each forty-acre subdivision thereof to be dry land, fitted for cultivation without artificial drainage or embankment, and not subject to such regular periodical overflow as would materially injure or destroy a crop.

If reliable testimony of this character be presented to you by Mr. Barnes, it must be regarded as establishing his title in preference to the claim of the State.

Very respectfully, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

After like offer, objection, ruling, and exception, defendant's counsel read

#### EXHIBIT 90.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *Sept. 18, 1852.*

SIR: I enclose herewith copy of a letter received at this office in reference to the purchase of a tract of land which is included in the list to be certified to the State under the swamp-land act. Mr. Bartlett has been referred to the commissioner of the State land office for an answer to his inquiry.

178 The register at Kalamazoo has sold two lots—the N E  $\frac{1}{4}$  of N E  $\frac{1}{4}$  sec. 17, T 3 S, R 8 W, and N W  $\frac{1}{4}$  S W  $\frac{1}{4}$  sec. 32, T 4 S, R 10 W—previous to the receipt of the list furnished him in compliance with instructions contained in your letter of 10th July last.

Nothing has yet been heard from the registers at Detroit, Flint and Sault Ste. Marie in reference to the lists which were furnished them requesting annotations, but sufficient time has elapsed since the date of your letter to enable them to complete those lists.

Much more time has been consumed upon this work than was anticipated, but so far as the making up of the lists is concerned, everything is now nearly completed, except in those townships which have been surveyed since the transmission of the lists to the registers.

A supplemental list, embracing all the new surveys in which no sales will have been made, will be furnished your office at an early day.

Will it be necessary to furnish a new list for the townships which



have been resurveyed the past season, or will the old surveys govern the selections?

I am, sir, very respectfully, your ob't serv't,

CHARLES NOBLE,

*Surveyor General.*

J. Butterfield, Esq., Commissioner Gen'l Land Office.

Indorsed: Answered Oct. 4th, 1852. P. Daggy.

After like offer, objection, ruling, and exception, defendant's counsel read

# EXHIBIT 91.

GENERAL LAND OFFICE, Oct. 4th, 1852.

Charles Noble, Esq., surveyor general, Detroit, Mich.

SIR: In answer to your letter of the 18th ultimo, I have to request that you will carefully re-examine the field-notes and  
179 plats in your office relating to the tract of land which Mr. Bartlett desires to purchase, and if you are satisfied that the land in question is of the character of the lands embraced by the swamp-land grant, you will so advise him, and also inform him that it is not subject to sale or location; but if you should ascertain that the land is not of that character, you will so report it to this office at your earliest convenience.

You will pursue the same course in relation to the two tracts sold by the register at Kalamazoo. If they are designated as swamp or overflowed lands by your field-notes and plats, you will so advise the register; but if not, you will report that fact to this office.

The registers at Detroit, Flint, and Sault Ste. Marie will receive due attention from this office.

In making out supplemental lists embracing the swamp lands in the townships recently surveyed, you will prepare three copies, one for your own office, one for the proper register, and one for this office.

In those townships resurveyed during the past season, it will be necessary to furnish new lists, in explanation of the former ones; but you will be careful to designate them as having been made out in lieu of the former ones.

Very respectfully, your ob't serv't,

JOHN WILSON,

*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read

# EXHIBIT 92.

SURVEYOR GENERAL'S OFFICE,

DETROIT, June 24, 1853.

SIR: Your letter of the 7th inst., has been received.

In making the supplemental list of swamp lands in townships

resurveyed and platted up to Dec'r 6th, 1852, your instructions of 4th of Oct., 1852, were carefully observed, but it should have been stated either at the head of the list, or in the letter transmitting it, that it was intended to be placed on file in your office in lieu of the former list.

In all cases of resurveys, a list of swamp lands is made up from the plats of resurvey without any reference whatever to the old plat or to the original list made out from the lot plats.

The question as to whether the original or the supplemental list should govern, it was supposed, would be decided at your office. As the question is submitted, however, it seems to me that the supplemental list, if made at all, should in all cases govern, and, in fact, it should be placed in lieu of the original list, as the plats of resurveys take the place of the original plats, whenever any plats are made of resurveyed townships.

In all the lists hereafter to be made up and forwarded, where the original list has already been sent on, the supplemental list will be considered as a substitute for the original, to take its place on the files, making the original list of no more account than are the plats of the original survey.

Very respectfully, your ob't serv't,

LEANDER CHAPMAN,

*Surveyor General.*

John Wilson, Esq., Commissioner Gen'l Land Office, Washington.

After like offer, objection, ruling and exception, defendant's counsel read:

EXHIBIT 93.

SURVEYOR GENERAL'S OFFICE,

DETROIT, Oct. 29th, 1853.

SIR: I transmit herewith supplemental list No. 2 of swamp lands in the Grand River land district.

I have, in obedience to your instructions, indicated in the heading of this list that it is intended to abrogate and supersede all lists of swamp lands heretofore made of townships contained within it.

I am, sir, very respectfully, your ob't serv't,

LEANDER CHAPMAN,

*Surveyor General.*

John Wilson, Esq., Com'n'r General Land Office, Washington.

After like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 94.

GENERAL LAND OFFICE, Nov. 7th, 1853.

Leander Chapman, Esq., surveyor general, Detroit, Michigan.

SIR: Your letter of the 29th ulto., transmitting supplemental list of swamp and overflowed lands in the Ionia district, Michigan,

"intended to abrogate and supersede all lists of swamp lands heretofore made of townships contained within it," has been received. The original list will be altered so as to conform to said supplemental list.

Very respectfully, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

After like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 95.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *January 31st, 1855.*

SIR: I enclose herewith a list of the swamp and overflowed lands in the Cheboygan land district contained in townships surveyed and platted up to January 15, 1855, which townships have not been included in any former list. With this list it is believed  
182 that a description of the swamp and overflowed lands in every township in this State have been transmitted to your department.

Up to the present time, as fast as townships have been resurveyed, new lists of the swamp lands in such townships have been prepared from plats of the new or resurvey, and forwarded to your office and to the proper district land officer, to supersede and take the place of the list before prepared and furnished from the plats of the *old* or *fraudulent* surveys.

I have now to ask whether it will be proper to continue to furnish, as heretofore, new lists of the swamp lands in townships that may hereafter be resurveyed.

I am, very respectfully, your ob't serv't,

L. CHAPMAN,  
*Surveyor General.*

John Wilson, Esq., Comm'r Gen'l Land Office, Washington.

After like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 96.

GENERAL LAND OFFICE, *February 12, 1855.*

Leander Chapman, Esq., surveyor general, Detroit, Michigan.

SIR: I have to acknowledge the receipt of your letter of the 31st ulto., and the accompanying lists of swamp and overflowed lands in the Lake Superior and Cheboygan districts, Michigan. In reply to the inquiry made by you, I would state that it will be necessary for you to continue, as heretofore, to furnish new lists of the swamp lands in townships resurveyed, to supersede and take the place of those prepared from the defective or fraudulent surveys.

Very respectfully, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

183 And after like offer, objection, ruling, and exception, defendant's counsel read extracts from the report of the commissioner of the State land office for the year 1852, as

EXHIBIT 97.

*Report for the Year Ending September 30th, 1852.*

Porter Kibbee, commissioner, in reference to swamp lands, says: No lists have been received of any portion of these lands in anticipation that we should be furnished with the lists within a reasonable time after the passage of the act of Congress donating the lands to the State, I procured the maps of all townships in the Lower Peninsula in which there are swamp lands. I addressed a communication to the Commissioner of the General Land Office in October, asking for lists of a part of these lands. That you may have the views of the proper department of the General Government on the subject, I subjoin the following letter from the Commissioner:

GENERAL LAND OFFICE, *November 2d, 1852.*

SIR: In answer to your letter of the 20th ultimo, I have to inform you that the lands to which you refer, and which you may desire to have approved in advance of the regular lists, as swamp and overflowed lands, enuring to the State of Michigan, under the act of 28th September, 1850, appear to be situated in three different land districts, viz., Detroit, Genesee and Ionia; in the two former of which no reports of the selections have ever been received at this office. Frequent applications from other States having heretofore been made of a similar nature, it was found necessary to establish a rule not to act upon any isolated tracts without taking action upon the whole selections from any one district, for the reason that the final adjustment of the grant would thereby be much retarded. So that even if all the returns were in, in view of the foregoing regulation, I could not consistently comply with your request. But you may rest assured that the selections will be acted upon at the earliest possible period. At the same time, it must be borne in mind that this grant is a very heavy one, and consequently will require much time and labor to bring it to a close.

Very respectfully, your obedient servant.

JOHN WILSON,  
*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 98.

GENERAL LAND OFFICE, *January 20th, 1854.*

SIR: I have the honor to request that you will cause to be erased from the copy of approved list No. 1 of swamp and overflowed

lands in the Kalamazoo district the following tract of land, viz :  $S\ W\ \frac{1}{4}$  of  $N\ E\ \frac{1}{4}$  sec. 13, T 3 S, R 7 W, 40 acres. Said tract was erroneously approved, having been sold in 1836.

You will enter upon said list in place of said tract the  $N\ E\ \frac{1}{4}$  of  $N\ E\ \frac{1}{4}$  sec. 13, T 3 S, R 7 W, the tract intended to be approved.

You will be pleased to advise this office of the above corrections having been duly made.

With great respect, your ob't serv't,  
(Signed)

JOHN WILSON,  
*Commissioner.*

His excellency Andrew Parsons, governor of Michigan, Lansing, Michigan.

185 After like offer, objection, ruling, and exception, defendant's counsel read

#### EXHIBIT 99.

EXECUTIVE OFFICE, LANSING, Jan'y 30, 1854.

SIR: I have the honor to acknowledge the receipt of your communication of the 20 inst., requesting an erasure from approved list No. 1, of swamp and overflowed lands in the Kalamazoo district. The following tracts of land, viz :  $S\ W\ \frac{1}{4}$  of  $N\ E\ \frac{1}{4}$  sec. 13, T 3 S, R 7 W, 40 acres, and that in place thereof there be entered the  $N\ E\ \frac{1}{4}$  of  $N\ E\ \frac{1}{4}$  sec. 13, T 3 S, R 7 W, and to inform you that I have made the correction accordingly.

Very respectfully, your ob't serv't,

ANDREW PARSONS.

Hon. John Wilson, Commissioner of Gen'l Land Office, Washington, D. C.

After like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 100.

GENERAL LAND OFFICE, February 24, 1854.

His excellency Andrew Parsons, governor of Michigan, Lansing, Michigan.

SIR: I have the honor to request that you will cause the copy of approved list No. 4, of swamp and overflowed lands in Genesee district, Michigan, to be corrected as follows, viz : In sections 26 and 27, T 23 N, R 3 W, enter the following in place of the tracts therein embraced :

$N\ \frac{1}{2}$ of	26 23 N 3 W 320
$N\ \frac{1}{2}$ of $S\ W\ \frac{1}{4}$	26 " " 80
$E\ \frac{1}{2}$ of $N\ E\ \frac{1}{4}$	27 " " 80
$N\ E\ \frac{1}{4}$ of $N\ W\ \frac{1}{4}$	27 " " 40
$S\ W\ \frac{1}{4}$ of $N\ W\ \frac{1}{4}$	27 " " 40
$N\ W\ \frac{1}{4}$ of $S\ W\ \frac{1}{4}$	27 " " 40
$S\ E\ \frac{1}{4}$ of $S\ W\ \frac{1}{4}$	27 " " 40
$S\ E\ \frac{1}{4}$	27 " " 160

186 You will be pleased to advise this office of said corrections having been duly made upon said list.

With great respect, your ob't serv't,

JOHN WILSON,  
Commissioner.

After like offer, objection, ruling and exception, defendant's counsel read from a duly certified copy from the commissioner of the State land office, as

EXHIBIT 101.

No. 4.

A list of swamp and overflowed lands selected as enuring to the State of Michigan, under the provision of the act of Congress approved September 28, 1850, in the district of lands subject to sale, at Ionia, Michigan, viz:

*Index.*

Towns 23, 25, 26, 27,	north, range 3 west.
" 22, 24, 27,	" " 4 "
" 21, 24, 26, 27,	" " 5 "
" 21, 27,	" " 6 "
" 24,	" " 7 "
" 23, 26, 30,	" " 8 "
" 28,	" " 9 "
" 22, 23, 24, 25, 27,	" " 10 "
" 30,	" " 11 "
" 30,	" " 12 "

187

Parts of sections.	Section.	Township.	Range.	Acres.	
North $\frac{1}{2}$ .....	26	23	3	320	
N $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	26	"	"	80	
E	27				
<del>N</del> $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	<del>26</del>	"	"	80	* See letter from Com'r General Land Office, Feb'y 24th, 1854.
	27				
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ ...	<del>26</del>	"	"	40	" " "
S W $\frac{1}{4}$ of N W $\frac{1}{4}$ ...	27	"	"	40	" " "
N W $\frac{1}{4}$ of S W $\frac{1}{4}$ ...	27	"	"	40	
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ ...	27	"	"	40	
S E $\frac{1}{4}$ .....	27	"	"	160	

\* Red ink in original copy. Also dittos and erasures.

GENERAL LAND OFFICE, *December 26th, 1853.*

Respectfully submitted for approval.

(Signed)

JOHN WILSON,

*Commissioner.*

DEPARTMENT OF THE INTERIOR, *December 31, 1853.*

The selections embraced in the foregoing list are hereby approved subject to any valid legal rights that may exist thereto.

(Signed)

R. McCLELLAND, *Secretary.*

GENERAL LAND OFFICE, *January 18th, 1854.*

I, John Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing is a true copy of list No. 4, of swamp and overflowed lands, selected as enuring to the State of Michigan, under the provisions of the act of Congress approved September 28th, 1850, in the district of lands subject to sale, at Ionia, Michigan, taken from the original on file in this office, which was on the 31st day of December, 1853, approved by the Secretary of the Interior.

188 In testimony whereof, I have hereunto subscribed my name, and caused to be affixed the seal of this office, at the city of Washington, on the day and year above written.

[SEAL.]

(Signed)

JOHN WILSON,

*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 102.

GENERAL LAND OFFICE, *March 31st, 1854.*

His excellency Andrew Parsons, governor of Michigan, Lansing, Michigan.

SIR: I have the honor to request that you will cause to be made the following corrections upon the certified copy of approved list No. 1 of swamp and overflowed lands in Genesee district, Michigan, heretofore transmitted to you, viz:

N E $\frac{1}{4}$ of N W $\frac{1}{4}$	sec. 27, T 15 N, R 2 W	to be added to list.
N $\frac{1}{2}$ of N W $\frac{1}{4}$	21 17	2 should be N $\frac{1}{2}$ of S W $\frac{1}{4}$ .
N E $\frac{1}{4}$ of S E $\frac{1}{4}$	10 22	2 should be N E $\frac{1}{4}$ of N E $\frac{1}{4}$ .
S W $\frac{1}{4}$ of N W $\frac{1}{4}$	12 37	2 should be S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .
W $\frac{1}{2}$ of N E $\frac{1}{4}$	14 7	1 E should be W $\frac{1}{2}$ of S E $\frac{1}{4}$ .
W. fr. $\frac{1}{2}$ of N W fr. $\frac{1}{4}$	19 17	1 W to be erased, and the following tracts substituted in place thereof:

N W fr. $\frac{1}{4}$ of N W fr. $\frac{1}{4}$	sec. 19, 17 N, 1 W,	33.90 acres
S W fr. $\frac{1}{4}$ of S W fr. $\frac{1}{4}$	" " " "	34.96 "

The following is a list of lands erroneously embraced in approved list No. 1, the same having been disposed of subsequent to the pas-

sage of the act of 28th September, 1850, and the conflicts yet remaining unadjusted. Inasmuch as said lands must ultimately enure to the State, it is not deemed necessary to procure any special revocation of the approval heretofore made; but you will please cause to be written opposite to each one thereof the word "Suspended," and upon adjustment of the outstanding conflicts you will be duly advised of the fact.

S W $\frac{1}{4}$ of S E $\frac{1}{4}$ . . . . .	Sec. 15, T 16, R 1 W
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ . . . . .	20
S E $\frac{1}{4}$ of N E $\frac{1}{4}$ . . . . .	25
W $\frac{1}{2}$ of S W $\frac{1}{4}$ . . . . .	25
E $\frac{1}{2}$ of S E $\frac{1}{4}$ . . . . .	25
S W $\frac{1}{4}$ of N W $\frac{1}{4}$ . . . . .	36
N W $\frac{1}{4}$ of N W $\frac{1}{4}$ . . . . .	36
S E $\frac{1}{4}$ of N E $\frac{1}{4}$ . . . . .	8 17 1
N $\frac{1}{2}$ of S E $\frac{1}{4}$ . . . . .	11
E $\frac{1}{2}$ of S E $\frac{1}{4}$ . . . . .	14
E $\frac{1}{2}$ of N E $\frac{1}{4}$ . . . . .	23
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ . . . . .	33
S W $\frac{1}{4}$ of N W $\frac{1}{4}$ . . . . .	25 6 1 E
S E $\frac{1}{4}$ of N W $\frac{1}{4}$ . . . . .	25
N W $\frac{1}{4}$ of N W $\frac{1}{4}$ . . . . .	25
N W $\frac{1}{4}$ of N E $\frac{1}{4}$ . . . . .	26
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ . . . . .	26
N W $\frac{1}{4}$ of N W $\frac{1}{4}$ . . . . .	26
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ . . . . .	26
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ . . . . .	35 8 1
N W $\frac{1}{4}$ of S W $\frac{1}{4}$ . . . . .	1 16 1
S E $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ . . . . .	32 21 1

You will be pleased to advise this office of the foregoing corrections having been made at your earliest convenience.

With great respect, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

190 After like offer, objection, ruling, and exception, defendant's counsel read from a duly certified copy from the commissioner of the State land office,

EXHIBIT 103.

No. 1.

Genesee district.

*Index.*

TOWNS.	North.	Range.
11, 12, 14, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39. . . . .		2 W
11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31 32, 33, 34, 35, 36, 37, 38. . . . .		1 "
6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34. . . . .		1 E



## No. 1.

A list of swamp and overflowed lands selected as enuring to the State of Michigan under the provisions of the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Genesee, Michigan, viz:

	Section.	Township.	Range.	Acres.	
	N	E			
N E $\frac{1}{4}$ of N. W $\frac{1}{4}$ ...	27	15	2	40.00	See Wilson's letter, M'ch 31/54.
S					
N $\frac{1}{4}$ of <del>N</del> W $\frac{1}{4}$ .....	21	17	2	80.00	See Wilson's letter, Ma'ch 31/54.
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ ....	10	22	2	40.00	
S					
S W $\frac{1}{4}$ of <del>N</del> W $\frac{1}{4}$ ....	12	37	2	40.00	See Wilson's letter, March 31/54.
S					
W $\frac{1}{2}$ of <del>N</del> E $\frac{1}{4}$ .....	14	7	1	80.00	See Wilson's letter, March 31/54.
N					
W fr. $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ ..	19	17	1	68.86	} See letter of Com'r Gen'l Land Office, dated March 31, 1854.
N W fr. $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ ..	"	"	"	33.90	
S W fr. $\frac{1}{4}$ of S W fr. $\frac{1}{4}$ ..	"	"	"	34.96	
All italics in this page in red ink in original copy.					
191					
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	15	16	1	80.00	{ S W $\frac{1}{4}$ of S E $\frac{1}{4}$ , 40 a., suspended, being disposed of by U. S. since Oct. 28, 1850. See Wilson's letter, March 31, '54.
The S W $\frac{1}{4}$ of S E $\frac{1}{4}$ of sec. 15, N E $\frac{1}{4}$ of N W $\frac{1}{4}$ 20, S E $\frac{1}{4}$ of N E $\frac{1}{4}$ 25, W $\frac{1}{2}$ of S W $\frac{1}{4}$ 25, E $\frac{1}{4}$ of S E $\frac{1}{4}$ 25, S W $\frac{1}{4}$ of N W $\frac{1}{4}$ , & N W $\frac{1}{4}$ of N W $\frac{1}{4}$ of 36, in T 16 N, R 1 W, are suspended, being disposed of since the passage of the act of Sep. 28, 1850. See Wilson's letter of March 31st, 1854.					
E $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	8	17	1	80.00	S E $\frac{1}{4}$ of N E $\frac{1}{4}$ suspended.
					See Wilson's letter, March 31/54.
N $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	11	17	1	80.00	Suspended.
E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	14	17	1	80.00	" "
E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	23	17	1	80.00	" "
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	33	17	1	80.00	N E $\frac{1}{4}$ of N E suspended. See Wilson's letter, March 31/54.
	N	E			
W $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	25	6	1	80.00	{ W $\frac{1}{2}$ of N W $\frac{1}{4}$ & S E $\frac{1}{4}$ of N W $\frac{1}{4}$ suspended.
S E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	25	6	1	40.00	{ See W.'s letter, March 31/54.
N $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	26	6	1	80.00	N W $\frac{1}{4}$ of N E $\frac{1}{4}$ , N E $\frac{1}{4}$ of N E $\frac{1}{4}$ , & N W $\frac{1}{4}$ of N W $\frac{1}{4}$ , N E $\frac{1}{4}$ of N W $\frac{1}{4}$ in sec. 26.
N $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	26	6	1	80.00	Suspended. See as above.
S E $\frac{1}{4}$ of S $\frac{1}{4}$ .....	35	8	1	40.00	Suspended. See W.'s letter, March 31-54.
W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	1	16	1	80.00	N W $\frac{1}{4}$ of S W $\frac{1}{4}$ suspended. See Wilson's letter, March 31-54.
S E $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ ...	32	21	1	40.00	Suspended. See W.'s letter, March 31-54.

GENERAL LAND OFFICE, October 24th, 1853.

Respectfully submitted for approval.

(Signed)

JOHN WILSON,  
Commissioner.

All italics in above description in red ink in original.

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, Oct. 25, 1853.

The lands embraced in the foregoing list are hereby approved to the State of Michigan, under the act of Congress approved 192 28th September, 1850, subject to any valid legal rights which may exist thereto.  
(Signed)

R. McCLELLAND, *Secretary.*

GENERAL LAND OFFICE, *December 20th, 1853.*

I, John Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing is a correct copy of list No. 3, of swamp and overflowed lands, selected as enuring to the State of Michigan, under the provisions of the act of Congress, approved September 28th, 1850, in the district of lands subject to sale at Genesee, Michigan, taken from the original on file in this office, which was, on the 25th day of October, 1853, approved by the Secretary of the Interior.

*In testimony whereof*, I have hereunto subscribed my [SEAL.] name, and caused to be affixed the seal of this office, at the city of Washington, on the day and year above written.

JOHN WILSON,  
*Commissioner.*

And after like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 104.

GENERAL LAND OFFICE, *April 25th, 1854.*

His excellency Andrew Parsons, governor of Michigan, Lansing, Michigan.

SIR: I have the honor to request that you will cause the following corrections, &c., to be made upon the copy of approved list No. 2 of swamp and overflowed lands granted to the State of Michigan, under act of 28th Sept., 1850, in the district of lands subject to sale at Genesee, Michigan, viz:

193

Parts of sections.	Sec.	T.	R.	Area.	Remarks.
		N.	E.		
N W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	19	6	2	40.00	Subsequently sold; must be suspended.
N W fr. $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ .....	4	13	2	43.52	Within Ind'n res'n; must be erased from list.
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	33	14	2	40.00	Within Ind'n res'n; must be erased from list.
N E pt. of N E fr. $\frac{1}{4}$ .....	24	11	3	15.87	Previously sold; must be erased from list.
(east of river)					
E pt. of S E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	24	11	3	0.91	Previously sold; must be erased from list.
(E. of river)					
S E $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ .....	18	29	3	80.00	Should be 40 acres.
S $\frac{1}{4}$ of N E fr. $\frac{1}{4}$ .....	1	32	3	80.00	Should be 61.09 acres.
N W fr. $\frac{1}{4}$ .....	1	32	3	134.24	Should be 135 acres.
N E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	1	32	3	40.00	Should be 21.82 acres.
E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	12	"	"	80.00	Should be 49.69 acres.
E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	13	"	"	80.00	Should be 52.72 acres.
E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	13	"	"	80.00	Should be 56.17 acres.
N $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	24	32	3	80.00	Should be 69.48 acres.
N E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	25	"	"	40.00	Should be 31.56 acres.
Lot No. 1 (N. of res'n).....	24	"	"	26.10	These approvals were made from old plat. By
Lot No. 2.....	24	"	"	29.62	new plat the tracts appear as lot No. 5, 24.85
Lot No. 3.....	24	"	"	40.67	acres, and lot No. 6, 67.95 acres. List should
					be so altered. The area of N $\frac{1}{4}$ should be 313
					acres.
Lot No. 3.....	19	15	5	58.40	Within Ind'n res'n; must be erased from list.
Lot No. 4.....	19	15	5	45.58	Within Ind'n res'n; must be erased from list.

The register also reports the following errors in copying. Should the same exist in the copy of said list on file in your office, you will be pleased to cause the same to be corrected:

N fr. $\frac{1}{4}$ of N E fr. $\frac{1}{4}$ .....	3	17	2	28.55	N E fr. $\frac{1}{4}$ of N E fr. $\frac{1}{4}$ on original list.
N $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	7	19	2	80.00	N $\frac{1}{4}$ of N E $\frac{1}{4}$ on original list.
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	12	20	2	40.00	App'd selections are N $\frac{1}{4}$ , E $\frac{1}{4}$ of S W $\frac{1}{4}$ , W $\frac{1}{4}$ of S E $\frac{1}{4}$ , and N E $\frac{1}{4}$ of S E $\frac{1}{4}$ .
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	12	6	4	40.00	App'd selections are E $\frac{1}{4}$ of N W $\frac{1}{4}$ , and S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .
Fr. section.....	10	14	6	177.05	Should be fr. sec. 9; fr. sec. 10, which follows it, contains 60.90 acres.

You will be pleased to advise this office, at your earliest convenience, of said corrections having been duly made.

With great respect, your ob't serv't,  
(Signed)

JOHN WILSON, *Commissioner.*

194 And after like offer, objection, ruling, and exception, defendant's counsel read, from a duly certified copy from the State land office of Michigan,

### EXHIBIT 105.

#### No. 2.

#### Genesee district.

#### Index.

Towns.	North.	R. east.
34, 35, 36, 37, 38.....		1
6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 29, 30, 31, 32, 34, 35, 36, 37, 38.....		2
6, 7, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36.....		3
6, 7, 8, 10, 11, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.....		4
6, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.....		5
12, 13, 14, 18, 19, 20.....		6

## No. 2.

A list of swamp and overflowed lands selected as enuring to the State of Michigan under the provisions of the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Genesee, Michigan, viz:

	Parts of sections.	Section.	Township.	Range.	
<i>Suspended.</i>	N W $\frac{1}{4}$ of N E $\frac{1}{4}$ ...	19	6	2	40.00
					<i>Sold subsequent to act.</i>
					<i>Vide John Wilson's letter, Apr. 25, 1854.</i>
<i>Erased.</i>	<del>N W fr. <math>\frac{1}{4}</math> of N W <math>\frac{1}{4}</math> ...</del>	<del>4</del>	<del>19</del>	<del>2</del>	<del>43.52</del>
	<del>fr. <math>\frac{1}{4}</math>.</del>				<i>Within Indian reservation.</i>
					<i>Vide John Wilson's letter, April 25, 1854.</i>
<i>Erased.</i>	<del>N W <math>\frac{1}{4}</math> of S W <math>\frac{1}{4}</math> ...</del>	<del>33</del>	<del>14</del>	<del>2</del>	<del>48.88</del>
					<i>Within Indian re-r.</i>
195	N E pt. of N E fr. $\frac{1}{4}$				
<i>Erased.</i>	<del>(East of river) ...</del>	<del>24</del>	<del>11</del>	<del>3</del>	<del>15.67</del>
	<del>E pt. of S E fr. <math>\frac{1}{4}</math></del>	<del>..</del>	<del>..</del>	<del>..</del>	<del>.....</del>
	<del>of N E fr. <math>\frac{1}{4}</math></del>				
<i>Erased.</i>	East of river. ....	24	11	3	.91
					<i>Sold previous to act.</i>
					<i>Wilson's letter, April 25, 1854.</i>
	SE $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ ...	18	29	3	40.00
					<i>Wilson's letter, April 25, 1854.</i>
					<i>Vide John Wilson's letter, April 25, 1854.</i>
					<i>61.09</i>
	S $\frac{1}{2}$ of N E fr. $\frac{1}{4}$ ...	1	32	3	80.00
					<i>Vide John Wilson's letter, April 25, 1854.</i>
					<i>135.00</i>
	N W fr. $\frac{1}{4}$ ...	1	32	3	21.82
					<i>Wilson's letter, April 25, 1854.</i>
	N E $\frac{1}{4}$ of S E $\frac{1}{4}$ ...	1	32	3	49.69
					<i>Wilson's letter, April 25, 1854.</i>
	E $\frac{1}{4}$ of S E $\frac{1}{4}$ ...	12	32	3	52.72
					<i>Wilson's letter, April 25, 1854.</i>
	E $\frac{1}{4}$ of N E $\frac{1}{4}$ ...	13	32	3	56.17
					<i>Wilson's letter, April 25, 1854.</i>
	E $\frac{1}{4}$ of S E $\frac{1}{4}$ ...	13	32	3	69.48
					<i>Wilson's letter, April 25, 1854.</i>
	N $\frac{1}{2}$ of N E $\frac{1}{4}$ ...	24	32	3	31.56
					<i>Wilson's letter, April 25, 1854.</i>
<i>Erased.</i>	<del>N E <math>\frac{1}{4}</math> of S E <math>\frac{1}{4}</math> ...</del>	<del>25</del>	<del>32</del>	<del>3</del>	<del>52.40</del>
	<del>Lot No. 3</del>	<del>19</del>	<del>15</del>	<del>5</del>	<del>45.56</del>
<i>Erased.</i>	<del>Lot No. 4</del>	<del>19</del>	<del>15</del>	<del>5</del>	<del>45.56</del>
	<i>E</i>				
	N fl. $\frac{1}{4}$ of N E fl. $\frac{1}{4}$ .	3	17	2	28.55
					<i>Vide Wilson's letter, April 25, 1854.</i>
	N $\frac{1}{2}$ of <del>S</del> E $\frac{1}{4}$ ...	7	19	2	80.00
					<i>Vide Wilson's letter, April 25, 1854.</i>
	N $\frac{1}{4}$ ...	12	20	2	320.00
	E $\frac{1}{4}$ of S W $\frac{1}{4}$ ...	12	20	2	80.00
	W $\frac{1}{4}$ of S E $\frac{1}{4}$ ...	12	20	2	80.00
	N E $\frac{1}{4}$ of S E $\frac{1}{4}$ ...	12	20	2	40.00
	E $\frac{1}{4}$ of N W $\frac{1}{4}$ ...	12	6	4	80.00
	S W $\frac{1}{4}$ of N W $\frac{1}{4}$ ...	12	6	4	40.00
	Fractional section.	9	14	6	177.05

Respectfully submitted for approval.

(Signed)

JOHN WILSON,  
Commissioner.

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, *October 25th, 1853.*

The selections embraced in the foregoing list are hereby approved to the State of Michigan, under the act of Congress approved the 28th day of September, 1850, subject to any valid legal rights which may exist thereto.

(Signed)

R. M. McCLELLAND, *Secretary.*

GENERAL LAND OFFICE, *December 26th, 1853.*

I, John Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing is a correct copy of list No. 2, of swamp and overflowed lands, selected as enuring to the State of Michigan, under the provisions of the act of Congress, approved September 28th, 1850, in the district of lands subject to sale at Genesee, Michigan, taken from the original on file in this office, which was, on the 25th day of October, 1853, approved by the Secretary of the Interior.

[SEAL.] *In testimony whereof,* I have hereunto subscribed my name, and caused to be affixed the seal of this office, at the city of Washington, on the day and year above written.

(Signed)

JOHN WILSON,

*Commissioner.*

197 After like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 106.

GENERAL LAND OFFICE, *May 19, 1854.*

His excellency Andrew Parsons, governor of Michigan, Lansing, Michigan.

SIR: I have the honor to request that you will cause the following notes and corrections to be made on the copy of approved list No. 3 of swamp and overflowed lands in Genesee district, Michigan, viz:

	N	E	
$\frac{1}{4}$ of N E $\frac{1}{4}$ .....	11	23	6 Should be S $\frac{1}{4}$ of S E $\frac{1}{4}$ .
E fr. $\frac{1}{4}$ of.....			Should be N E fr. $\frac{1}{4}$ of.
E fr. $\frac{1}{4}$ .....	1	26	6 N W fr. $\frac{1}{4}$ .
$\frac{1}{4}$ of S W $\frac{1}{4}$ .....	11	"	" Should be section 12.
$\frac{1}{4}$ of S E $\frac{1}{4}$ .....	17	11	9 Should be section 18 & eight *
E $\frac{1}{4}$ of.....	12	7	8 Sold prior. Must be erased from list.
E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	26	"	" Sold prior. Must be erased from list.
E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	8	9	8 Sold prior. Must be erased from list.
E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	11	6	8 Loc'd subsequent. Must be suspended.
E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	22	10	8 Loc'd subsequent. Must be suspended.
E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	35	"	" Loc'd subsequent. Must be suspended.
E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	24	12	8 Loc'd subsequent. Must be suspended.
W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	21	7	11 Loc'd subsequent. Must be suspended.
W fr. $\frac{1}{4}$ .....	18	15	9 Sold subsequent. Must be suspended.
W fr. $\frac{1}{4}$ of.....	30	6	9 26.14 acres. Should be 33.14 acres.
W fr. $\frac{1}{4}$ .....			

\* & eight in pencil in original.

S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	26	7	8	Must be added to list.
S E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	33	12	9	Must be added to list.
N W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	26	7	8	Must be added to list.
S E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	33	12	9	Must be added to list.

W  $\frac{1}{2}$  of S W  $\frac{1}{4}$  sec. 22, T 7 N, R 11 E, must be added to list.

You will be pleased to advise this office of said corrections, etc., having been duly made.

With great respect, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

198 After like offer, objection, ruling and exception, defendant's counsel read, from a duly certified copy from the State land office of Michigan,

### EXHIBIT 107.

No. 3.

Genesee district.

### Index.

Towns.	North.	R. east.
20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 .....		6
9, 10, 12, 13, 14, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 .....		7
6, 7, 9, 10, 12, 13, 14, 15, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 .....		8
6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 .....		9
6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 26, 27 .....		10
6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 .....		11

No. 3.

A list of swamp and overflowed lands, selected as enuring to the State of Michigan, under the provisions of the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Genesee, Michigan, viz :

Parts of sections.	Section.	Township.	Range.	Acres.	
		N	E		
S $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	11	23	6	80.00	<i>Vide Wilson's letter May 19/54.</i>
<del>N</del> E fr. $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ ..	1	26	6	41.60	<i>Vide Wilson's letter May 19/54.</i>
S $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	12	26	6	80.00	<i>Vide Wilson's letter May 19/54.</i>
E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	18	11	9	80.00	<i>Vide Wilson's letter May 19/54.</i>
<del>S E <math>\frac{1}{4}</math> .....</del>	<del>42</del>	<del>7</del>	<del>8</del>	<del>160.00</del>	<i>Erased; sold prior to Wilson's, May 19/54.</i>

Italics and erasures in description in red ink in original.

199

Parts of section.	Section.	Township.	Range.	Acres.	
		N E			
<i>Erased.</i> <del>N E 1/4 of N E 1/4</del> .....	26	7	8	40.00	<i>Wilson's letter, May 19/54.</i>
<i>Erased.</i> <del>N E 1/4 of S W 1/4</del> .....	8	9	8	40.00	<i>Wilson's letter, May 19/54.</i>
<i>Suspended.</i> <del>N E 1/4 of S E 1/4</del> .....	11	6	8	40.00	<i>Subsequent to act. Vide Wilson's letter May 19/54.</i>
<i>Suspended.</i> <del>N E 1/4 of N E 1/4</del> .....	22	10	8	40.00	<i>Subsequent to act. Vide Wilson's letter May 19/54.</i>
<i>Suspended.</i> <del>S E 1/4 of N E 1/4</del> .....	37	10	8	40.00	<i>Subsequent to act. Vide Wilson's letter May 19/54.</i>
<i>Suspended.</i> <del>N E 1/4 of S W 1/4</del> .....	24	12	8	40.00	<i>Subsequent to act. Vide Wilson's letter May 19/54.</i>
<i>Suspended.</i> <del>S W 1/4 of N E 1/4</del> .....	24	7	11	40.00	<i>Subsequent to act. Vide Wilson's letter May 19/54.</i>
<i>Suspended.</i> <del>N W fr. 1/4</del> .....	18	15	9	20.08	<i>May 19-1854. Wilson's letter same date.</i>
S W fr. part of N W fr. 1/4.....	30	6	9	33.14	<i>Vide Wilson's letter May 19-1854.</i>
S W 1/4 of S E 1/4.....	26	7	8	40.00	<i>Added May 19-1854. Vide Wilson's letter same date.</i>
S E 1/4 " N W 1/4.....	33	12	9	40.00	<i>S E 1/4 of N W 1/4 added June 5-54. Vide Wilson's letter May 19-54.</i>
W 1/2 " S W 1/4.....	22	7	11	80.00	<i>Added June 3-1854. Vide Wilson's letter May 19-54.</i>

Italics and erasures in description in red ink in original.

GENERAL LAND OFFICE, October 24, 1853.

Respectfully submitted for approval.

(Signed)

JOHN WILSON,  
Commissioner.DEPARTMENT OF THE INTERIOR,  
WASHINGTON, October 25th, 1853.

The tracts embraced in the within list are hereby approved to the State of Michigan under the act of Congress approved 28th September, 1850, subject to any legal valid rights which may exist thereto.

(Signed)

R. McCLELLAND, Secretary.

200

GENERAL LAND OFFICE, December 20th, 1853.

I, John Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing is a true copy of list No. 3, of swamp

and overflowed lands, selected as enuring to the State of Michigan, under the provisions of the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Genesee, Michigan, taken from the original on file in this office, which was, on the 25th day of October, 1853, approved by the Secretary of the Interior.

*In witness whereof*, I have hereunto subscribed my name, and caused to be affixed the seal of this office, at the city of  
[SEAL.] Washington, on the day and year first above written.

(Signed)

JOHN WILSON,  
*Commissioner.*

And after like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 108.

GENERAL LAND OFFICE, *July 1st, 1854.*

His excellency Andrew Parsons, governor of Michigan, Lansing, Michigan.

SIR: I have the honor to request that you will cause to be made the following corrections on the copy of approved list No. 3, of swamp and overflowed lands, in Sault Ste. Marie district, Michigan, heretofore transmitted to you, viz:

*N  $\frac{1}{2}$  of N W  $\frac{1}{4}$  sec. 11, T 42, R 15 W, 80 acres,* should be altered to *W  $\frac{1}{2}$  of N W  $\frac{1}{4}$  sec. 11, T 42, R 15 W.* There is no such subdivision as the first named upon the plat, and the surveyor general has directed the alteration.

With great respect, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

201 After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 109.

EXECUTIVE OFFICE, LANSING, *July, 1854.*

SIR: I have the honor to acknowledge the receipt of your communication of 1st inst., requesting corrections to be made in the copy of approved list No. 3, of swamp and overflowed lands in Sault Ste. Marie district, Michigan, and to inform you that I have caused the corrections as requested to be made.

With great respect, your ob't serv't,

ANDREW PARSONS.

Hon. John Wilson, Com'r Gen. Land Office, Washington, D. C.



After like offer, objection, ruling and exception, defendant's counsel read, from a duly certified copy from the State land office of Michigan,

## EXHIBIT 110.

*Grand River Land District No. 1.*

Part of section.	Section.	Town.	Range.	Contents.	Remarks.
				North. West. Acres.	
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	2	18	3	39.76	For these 3 towns see end of this district. 80.00 (39.06)
S $\frac{1}{2}$ S E $\frac{1}{4}$ .....	3	"	"	80.00	
N E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
S W $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ..	"	"	"	40.00	
N W fr. $\frac{1}{4}$ N E fr. $\frac{1}{4}$ .	4	"	"	39.06	
S $\frac{1}{2}$ N E fr. $\frac{1}{4}$ .....	"	"	"	80.00	
N W $\frac{1}{4}$ S E $\frac{1}{4}$ .....	"	"	"	40.00	
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	"	"	"	38.95	
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	"	"	"	38.84	
S $\frac{1}{2}$ N W fr. $\frac{1}{4}$ .....	"	"	"	80.00	
N $\frac{1}{2}$ S W $\frac{1}{4}$ .....	"	"	"	80.00	
202					
S W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	18	3	40.00	
N E fr. $\frac{1}{4}$ N E fr. $\frac{1}{4}$ .	5	"	"	38.79	
S $\frac{1}{2}$ N E fr. $\frac{1}{4}$ .....	"	"	"	80.00	
S E $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ....	"	"	"	40.00	
S $\frac{1}{2}$ .....	"	"	"	320.00	
S $\frac{1}{2}$ N E fr. $\frac{1}{4}$ .....	6	"	"	80.00	
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	"	"	"	38.08	
S E $\frac{1}{4}$ N W. fr. $\frac{1}{4}$ ...	"	"	"	40.00	
S E $\frac{1}{4}$ .....	"	"	"	160.00	
E $\frac{1}{2}$ S W fr. $\frac{1}{4}$ .....	7	"	"	80.00	
E $\frac{1}{2}$ .....	"	"	"	320.00	
Section.....	8	"	"	640.00	
W $\frac{1}{2}$ N W $\frac{1}{4}$ .....	9	"	"	80.00	S W $\frac{1}{4}$ S E $\frac{1}{4}$ sec. 9, A. 40.00
N E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
S W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	S W $\frac{1}{4}$ N W $\frac{1}{4}$ sec. 12. 40.00 E $\frac{1}{2}$ N W $\frac{1}{4}$ " " 80.00 N E $\frac{1}{4}$ " " 160.00
S E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	10	"	"	40.00	
E $\frac{1}{2}$ .....	"	"	"	320.00	
S W $\frac{1}{4}$ .....	11	"	"	160.00	
W $\frac{1}{2}$ S E $\frac{1}{4}$ .....	"	"	"	80.00	
N E $\frac{1}{4}$ S E $\frac{1}{4}$ .....	"	"	"	40.00	

Erasures in pencil in original.

Part of section.	Section.	Town.	Range.	Contents.	Remarks.
		North.	West.	Acres.	
N W $\frac{1}{4}$ N W $\frac{1}{4}$ .....	14	18	3	40.00	
N E $\frac{1}{4}$ N E $\frac{1}{4}$ .....	15	"	"	40.00	
W $\frac{1}{2}$ N E $\frac{1}{4}$ .....	"	"	"	80.00	
N W $\frac{1}{4}$ .....	"	"	"	160.00	
N E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
W $\frac{1}{2}$ S W $\frac{1}{4}$ .....	"	"	"	80.00	
<del>S E <math>\frac{1}{4}</math> N E <math>\frac{1}{4}</math>.....</del>	<del>16</del>	<del>"</del>	<del>"</del>	<del>40.00</del>	N W $\frac{1}{4}$ N E $\frac{1}{4}$ sec. 17. 40.00
<del>W <math>\frac{1}{2}</math> N E <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80.00</del>	N E $\frac{1}{4}$ N W $\frac{1}{4}$ " " 40.00
<del>E <math>\frac{1}{2}</math> N W <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80.00</del>	W $\frac{1}{2}$ N W $\frac{1}{4}$ " " 80.00
<del>S E <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>160.00</del>	
<del>E <math>\frac{1}{2}</math> S W <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80.00</del>	
E $\frac{1}{2}$ N E $\frac{1}{4}$ .....	18	"	"	80.00	
N W $\frac{1}{4}$ N E $\frac{1}{4}$ .....	"	"	"	40.00	
N E $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	"	"	"	40.00	
S W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	19	"	"	47.23	47.23
N W fr. $\frac{1}{4}$ S W fr. $\frac{1}{4}$ ...	"	"	"	47.28	
203					
S E $\frac{1}{4}$ S W fr. $\frac{1}{4}$ ...	19	18	3	40.00	
S $\frac{1}{2}$ S E $\frac{1}{4}$ .....	20	"	"	80.00	
<del>E <math>\frac{1}{2}</math> N W <math>\frac{1}{4}</math>.....</del>	<del>21</del>	<del>"</del>	<del>"</del>	<del>80.00</del>	
<del>66</del>					
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	2	18	3	39.76	
S $\frac{1}{2}$ S E $\frac{1}{4}$ .....	3	"	"	80.00	
N E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
S W $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	"	"	"	40.00	
S $\frac{1}{2}$ N E fr. $\frac{1}{4}$ .....	4	"	"	80.00	
N W $\frac{1}{4}$ S E $\frac{1}{4}$ .....	"	"	"	40.00	
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	"	"	"	38.95	
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	"	"	"	38.84	
S $\frac{1}{2}$ N W fr. $\frac{1}{4}$ .....	"	"	"	80.00	
N $\frac{1}{2}$ S W $\frac{1}{4}$ .....	"	"	"	80.00	
S W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
N E fr. $\frac{1}{4}$ N E fr. $\frac{1}{4}$ ...	5	"	"	38.79	
S $\frac{1}{2}$ N E fr. $\frac{1}{4}$ .....	"	"	"	80.00	
S E $\frac{1}{4}$ .....	"	"	"	160.00	
S E $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	"	"	"	40.00	
S W $\frac{1}{4}$ .....	"	"	"	160.00	
N E fr. $\frac{1}{4}$ N E fr. $\frac{1}{4}$ ...	6	"	"	38.08	
S E $\frac{1}{4}$ N E fr. $\frac{1}{4}$ ...	"	"	"	40.00	
S E $\frac{1}{4}$ .....	"	"	"	160.00	
E $\frac{1}{2}$ S W fr. $\frac{1}{4}$ .....	7	"	"	80.00	
E $\frac{1}{2}$ .....	"	"	"	320.00	
Section .....	8	"	"	640.00	

Erasures through town and range in pencil. Other erasures in ink in original.

Part of section.	Section.	Town.	Range.	Contents.	Remarks.
			North. West.	Aeres.	
W $\frac{1}{2}$ N W $\frac{1}{4}$ . . . . .	9	18	3	80.00	<i>See next page.</i>
N E $\frac{1}{4}$ S W $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S W $\frac{1}{4}$ S W $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S E $\frac{1}{4}$ S W $\frac{1}{4}$ . . . . .	10	"	"	40.00	
E $\frac{1}{2}$ . . . . .	"	"	"	320.00	
S W $\frac{1}{4}$ . . . . .	11	"	"	160.00	
W $\frac{1}{2}$ S E $\frac{1}{4}$ . . . . .	"	"	"	80.00	
N E $\frac{1}{4}$ S E $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S W $\frac{1}{4}$ N W $\frac{1}{4}$ . . . . .	12	"	"	40.00	
E $\frac{1}{2}$ N W $\frac{1}{4}$ . . . . .	"	"	"	80.00	
N E $\frac{1}{4}$ . . . . .	"	"	"	160.00	
N W $\frac{1}{4}$ N W $\frac{1}{4}$ . . . . .	14	"	"	40.00	
204 N E $\frac{1}{4}$ N E $\frac{1}{4}$ . . . . .	15	8	3	40.00	
W $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	"	"	"	80.00	
N W $\frac{1}{4}$ . . . . .	"	"	"	160.00	
N E $\frac{1}{4}$ S W $\frac{1}{4}$ . . . . .	"	"	"	40.00	
W $\frac{1}{2}$ S W $\frac{1}{4}$ . . . . .	"	"	"	80.00	
S E $\frac{1}{4}$ N E $\frac{1}{4}$ . . . . .	16	"	"	40.00	
W $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	"	"	"	80.00	
E $\frac{1}{2}$ N W $\frac{1}{4}$ . . . . .	"	"	"	80.00	
S E $\frac{1}{4}$ . . . . .	"	"	"	160.00	
E $\frac{1}{2}$ S W $\frac{1}{4}$ . . . . .	"	"	"	80.00	
E $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	18	"	"	80.00	
N W $\frac{1}{4}$ N E $\frac{1}{4}$ . . . . .	"	"	"	40.00	
N E $\frac{1}{4}$ N W fr. $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ . . . . .	19	"	"	47.23	
N W fr. $\frac{1}{4}$ S W fr. $\frac{1}{4}$ . . . . .	"	"	"	47.28	
S E $\frac{1}{4}$ S W fr. $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S $\frac{1}{2}$ S E $\frac{1}{4}$ . . . . .	20	"	"	80.00	
E $\frac{1}{2}$ N W $\frac{1}{4}$ . . . . .	21	"	"	80.00	
W $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	"	"	"	80.00	
N E $\frac{1}{4}$ N E $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S W $\frac{1}{4}$ . . . . .	"	"	"	160.00	
N W $\frac{1}{4}$ S E $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S E $\frac{1}{4}$ S E $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S E $\frac{1}{4}$ N W $\frac{1}{4}$ . . . . .	22	"	"	40.00	
N E $\frac{1}{4}$ . . . . .	"	"	"	160.00	
S $\frac{1}{2}$ . . . . .	"	"	"	320.00	
N E $\frac{1}{4}$ N E $\frac{1}{4}$ . . . . .	28	"	"	40.00	
W $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	"	"	"	80.00	
N W $\frac{1}{4}$ . . . . .	"	"	"	160.00	
N $\frac{1}{2}$ . . . . .	29	"	"	320.00	
N E $\frac{1}{4}$ . . . . .	30	"	"	160.00	

Erasures through town and range in pencil. Other erasures in ink in original.

Part of section.	Section.	Town.	Range.	Contents.	Remarks.
		North.	West.	Acres.	
N E $\frac{1}{4}$ N W fr. $\frac{1}{4}$ . .	30	18	3	40.00	<del>to be subdivided.</del>
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	"	"	"	47.41	
N $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	35	"	"	80.00	
S W $\frac{1}{4}$ N W $\frac{1}{4}$ . . . .	36	"	"	40.00	
E $\frac{1}{2}$ N W $\frac{1}{4}$ . . . . .	"	"	"	80.00	
N E $\frac{1}{4}$ . . . . .	"	"	"	160.00	
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	1	"	4	36.66	
<del>S W <math>\frac{1}{4}</math> N W fr. <math>\frac{1}{4}</math> . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40.00</del>	
205					
<del>N E <math>\frac{1}{4}</math> S E <math>\frac{1}{4}</math> . . . . .</del>	2	18	4	<del>40.00</del>	S E $\frac{1}{4}$ N E fr. $\frac{1}{4}$
<del>S W <math>\frac{1}{4}</math> N E fr. <math>\frac{1}{4}</math> . . .</del>	"	"	"	<del>40.00</del>	N W fr. $\frac{1}{4}$ N E fr. $\frac{1}{4}$ A
					Sec. 2, 40.00
					Sec. 2, 34.59
					to be sub.
S E $\frac{1}{4}$ N W fr. $\frac{1}{4}$ . . .	"	"	"	<del>40.00</del>	
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	"	"	"	35.99	
E $\frac{1}{2}$ S E . . . . .	11	"	"	80.00	
S $\frac{1}{2}$ S E $\frac{1}{4}$ . . . . .	"	"	"	40.00	* *
<del>W <math>\frac{1}{2}</math> S W <math>\frac{1}{4}</math> . . . . .</del>	17	"	"	80.00	80 A.
W $\frac{1}{2}$ S W $\frac{1}{4}$ . . . . .	20	"	"	80.00	
N $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	25	"	"	80.00	
N $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	27	"	"	80.00	
S W $\frac{1}{4}$ N E $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S E $\frac{1}{4}$ N W $\frac{1}{4}$ . . . . .	"	"	"	40.00	
N E $\frac{1}{4}$ S W $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S W $\frac{1}{4}$ S W $\frac{1}{4}$ . . . . .	"	"	"	40.00	
S $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	29	"	"	80.00	
N W $\frac{1}{4}$ . . . . .	"	"	"	160.00	
S $\frac{1}{2}$ . . . . .	"	"	"	320.00	
S E $\frac{1}{4}$ N E $\frac{1}{4}$ . . . . .	30	"	"	40.00	
E $\frac{1}{2}$ S E $\frac{1}{4}$ . . . . .	"	"	"	80.00	
S W $\frac{1}{4}$ S E $\frac{1}{4}$ . . . . .	"	"	"	40.00	
E $\frac{1}{2}$ . . . . .	31	"	"	320.00	
N $\frac{1}{2}$ . . . . .	32	"	"	320.00	
N W $\frac{1}{4}$ S W fr. $\frac{1}{4}$ . . .	"	"	"	40.00	
Lot No. 2 S W fr. $\frac{1}{4}$ S	"	"	"	34.80	
<del>W fr. <math>\frac{1}{4}</math></del>					
<del>N E fr. <math>\frac{1}{4}</math> and part of</del>	"	"	"	47.34	
<del>lot No. 1 S E fr. <math>\frac{1}{4}</math> S</del>					
<del>W fr. <math>\frac{1}{4}</math></del>					
N $\frac{1}{2}$ S E $\frac{1}{4}$ . . . . .	"	"	"	80.00	
S W $\frac{1}{4}$ S E $\frac{1}{4}$ . . . . .	"	"	"	40.00	
N $\frac{1}{2}$ . . . . .	33	"	"	320.00	
N W $\frac{1}{4}$ S W $\frac{1}{4}$ . . . . .	"	"	"	40.00	

Erasures through town and range in pencil. Other erasures in ink in original.

206

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *March 29, 1852.*

The above list of swamp lands in the Grand River land district which has been made up in accordance with the instructions from the General Land Office, dated Nov. 21, 1850, embraces all the lands in said district except such as may be found in townships which have been ordered to be resurveyed. The districts reported by Judge Burt and Hiram Burnham to be fraudulent are embraced in the list and marked "F."

The aggregate of unsold swamp lands (excluding 13 townships situated near Grand Traverse bay), according to the above statement amounts to 1,249,114.73 acres, in which is included the unsurveyed portion of township 9 N, R 1 W, estimated at 4,680 acres.

CHARLES NOBLE, *Sur. Gen'l.*

(Copy.)

U. S. LAND OFFICE, IONIA, MICH., *Feb. 12, '52.*

In the foregoing list, the descriptions marked *sold* were sold prior to September 28th, 1850. The descriptions sold since that date are marked giving *date of sale*, and noting the kind of payment C. 10/ — or \$1.25 per acre, whether cash or *warrants issued under act of Feb'y 11, 1847, or warrants issued under act of Sept. 28, 1850.* The description- marked State are land- heretofore selected by the State of Michigan under different laws of Congress.

I have been over with the list twice—have endeavored to be accurate, but have probably made some mistakes.

LOUIS S. LOVELL, *Regt.*

Hon. the sur. gen'l, Detroit, Michigan.

207 After like offer, objection, ruling and exception, defendant's counsel read, from the records of the State land office of Michigan,

EXHIBIT 111.

No. 1.

*Approved List No. 1, Ionia.*

A list of swamp and overflowed lands selected as enuring to the State of Michigan under the provision of the act of Congress, approved September 28th, 1850, in the district of lands subject to sale at Ionia, Michigan, viz :

*Index.*

Towns.	North.	Range.
1, 2, 3, 4, 5, 6, 7, 8, 9, 10.....		1
1, 2, 3, 4, 5, 6, 7, 8, 9, 10.....		2
1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39.....		3
1, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 25, 26, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39.....		4
1, 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19.....		5

	Sec.	Town.	Range.	Acres.
N E fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	2	N. 28	3	39.76
S $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	3	"	"	80.00
N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40.00
S W $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	"	"	"	40.00
N W fr'l $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ .....	4	"	"	39.06
S $\frac{1}{2}$ of N E fr'l $\frac{1}{4}$ .....	"	"	"	80.00
N W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40.00
Am't over.....				358.82
N E fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	"	"	"	358.82
N W fr'l $\frac{1}{4}$ of N W. fr'l $\frac{1}{4}$ .....	"	"	"	38.95 N. P.*
S $\frac{1}{2}$ of N W fr'l $\frac{1}{4}$ .....	"	"	"	38.84
N $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	"	"	"	80.00
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	80.00
N E fr'l $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ ..	5	"	"	40.00
208 S $\frac{1}{2}$ of N E fr'l $\frac{1}{4}$ .....	5	18	3	38.79
S E $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	"	"	"	80.00 N. P.
				40.00
S $\frac{1}{2}$ .....	"	"	"	N $\frac{1}{2}$ N. P.
S $\frac{1}{2}$ of N E fr'l $\frac{1}{4}$ .....	"	"	"	320.00
N E fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	6	"	"	80.00
S E $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	"	"	"	38.08
S E $\frac{1}{4}$ .....	"	"	"	40.00
E $\frac{1}{2}$ of S W. fr'l $\frac{1}{4}$ .....	"	"	"	160.00
E $\frac{1}{2}$ .....	7	"	"	80.00
Section.....	8	"	"	320.00
W $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	"	"	"	640.00
N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	9	"	"	80.00 N. P.
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40.00 N. P.
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40.00 N. P.
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40.00 N. P.
E $\frac{1}{2}$ .....	10	"	"	40.00 N. P.
S W $\frac{1}{4}$ .....	"	"	"	320.00 N. P.
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	11	"	"	160.00 N. P.
N E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	80.00 N. P.
S W $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	"	"	"	40.00 N. P.
E $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	12	"	"	40.00 N. P.
N E $\frac{1}{4}$ .....	"	N. 28	W.	80.00 N. P.
				160
				3,593.48
Am't over.....				3,593.48

67,649.70

67,649.70

\* N. P. and erasures in pencil in original.

	Sec.	Town.	Range.	Acre.	
N W $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	14	N. W.	3	40	
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	15	" "	" "	40	
W $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	"	" "	" "	80	
N W $\frac{1}{4}$ .....	"	" "	" "	160	N. P.
N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	" "	" "	40	N. P.
W $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	"	" "	" "	80	N. P.
N W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	17	" "	" "	40	N. P.
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	"	" "	" "	40	
W $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	"	" "	" "	80	N. P.
E $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	18	" "	" "	80	N. P.
N W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	"	" "	" "	40	N. P.
N E $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	"	" "	" "	40	N. P.
209 S W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	19	18	3	47.23	N. P.
N W " $\frac{1}{4}$ of S W " $\frac{1}{4}$ .....	"	" "	" "	47.28	N. P.
S E $\frac{1}{4}$ of S. W. fr'l $\frac{1}{4}$ .....	"	" "	" "	40	N. P.
S $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	20	" "	" "	80	N. P.
E $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	21	" "	" "	80	N. P.
W $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	"	" "	" "	80	N. P.
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	"	" "	" "	40	N. P.
S W $\frac{1}{4}$ .....	"	" "	" "	160	N. P.
N W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	" "	" "	40	N. P.
S E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	" "	" "	40	N. P.
S E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	22	" "	" "	40	N. P.
N E $\frac{1}{4}$ .....	"	" "	" "	160	N. P.
S $\frac{1}{2}$ .....	"	" "	" "	320	
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	28	" "	" "	40	
W $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	"	" "	" "	80	N. P.
N W $\frac{1}{4}$ .....	"	" "	" "	160	N. P.
				5,807.99	
Am't over.....				5,807.99	
				67,649.70	
				67,649.70	
N $\frac{1}{2}$ .....	29	N. W.	3	320	
N E $\frac{1}{4}$ .....	30	" "	" "	160	
N E $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	"	" "	" "	40	
N W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	"	" "	" "	47.41	
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	35	" "	" "	80	N. P.
S W $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	36	" "	" "	40	N. P.
E $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	"	" "	" "	80	
N E $\frac{1}{4}$ .....	"	" "	" "	160	
				6,735.40	

N. P. and erasures in pencil in original.

	Sec.	Town.	Range.	Acres.	
N W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	1	N. 18	W. 4	34.66	
S E $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ .....	2	"	"	40	
N W fr'l $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ .....	"	"	"	24.59	
N W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	"	"	"	35.99	
E $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	11	"	"	80	
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40	
W $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	17	"	"	80	
W $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	20	"	"	80	
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	25	"	"	80	
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	27	"	"	80	
210 S W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	27	18	3	40	
S E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	"	"	"	40	
				<hr/> 665.24	177,472.43
Am't over .....				<hr/> 665.24	177,472.43
N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	27	18	4	40	
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40	
S $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	29	"	"	80	
N W $\frac{1}{4}$ .....	"	"	"	160	
S $\frac{1}{2}$ .....	"	"	"	320	
S E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	30	"	"	40	
E $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	"	"	"	80	
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40	
E $\frac{1}{2}$ .....	31	"	"	320	
N $\frac{1}{2}$ .....	32	"	"	320	
N W $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	"	"	"	40	
Lot No. 2.....	"	"	"	34.80	
Lot No. 1.....	"	"	"	47.34	
N $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	"	"	"	80.00	
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40	
N $\frac{1}{2}$ .....	33	"	"	820	2,707.38*
N W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40	<del>2,706.38</del>

\*\$2,707.38 and erasures in pencil in original.

GENERAL LAND OFFICE, *October 27th, 1853.*

Respectfully submitted for approval.

(Signed)

JOHN WILSON,  
*Commissioner.*

DEPARTMENT OF THE INTERIOR, *October 27th, 1853.*

The lands embraced in the foregoing list are hereby approved to the State of Michigan under the act of Congress, app'd 28th Sep-



September, 1850, subject to any valid legal claim that may exist thereto.

(Signed)

R. McCLELLAND, *Secretary.*

211

GENERAL LAND OFFICE, *January 13th, 1854.*

I, John Wilson, Commissioner of the General Land Office, do hereby certify that the foregoing is a true copy of list No. 1 of swamp and overflowed lands selected as enuring to the State of Michigan, under the provision of the act of Congress, approved September 28th, 1850, in the district of lands subject to sale at Ionia, Michigan, taken from the original on file in this office, which was on the 27th day of October, 1853, approved by the Secretary of the Interior.

*In testimony whereof*, I have hereunto subscribed my name and caused to be affixed the seal of this office, at the city of Washington, on the day and year above written.

JOHN WILSON,  
*Commissioner.*

Defendant's counsel then read

#### EXHIBIT 112.

EXECUTIVE OFFICE, LANSING, *Jan'y 31, 1854.*

SIR: I have the honor to acknowledge the receipt of a certified copy of list No. 1 of swamp and overflowed lands selected as enuring to the State of Michigan, under the provisions of the act of Congress approved Sept. 28, 1850, in the district of lands subject to sale at Ionia, Michigan, taken from the original on file in your office, which was on the 27th day of October, 1853, approved by the Secretary of the Interior.

And I hereby respectfully request that the Secretary of the Interior issue the patents conveying the fee-simple title in said lands to the said State of Michigan.

Very respectfully, your ob't serv't,

ANDREW PARSONS.

Hon. John Wilson, Commissioner of the General Land Office, Washington, D. C.

2 Defendant's counsel then offered the following, to which plaintiff's counsel objected as immaterial and irrelevant, and the objection being overruled, plaintiff's counsel excepted, and defendant's counsel then read

#### EXHIBIT 113.

THE UNITED STATES OF AMERICA.

Ionia No. 2.

all to whom these presents shall come, Greeting:

*Whereas*, by the act of Congress approved September 28th, 1850, entitled An act to enable the State of Arkansas and other States, to

reclaim the "swamp lands within their limits," it is provided that all "swamp and overflowed lands" made unfit thereby for cultivation within the State of Michigan, which remained unsold at the passage of said act, shall be granted to said State; and

*Whereas*, in pursuance of instructions from the General Land Office of the United States, the several tracts or parcels of land hereinafter described have been selected as "swamp and overflowed lands" enuring to said State, under the act aforesaid, being situated in the district of lands subject to sale at Ionia, Michigan, to wit: \* \* \*

Township 18 N, R 4 west.

The northwest fractional quarter of the northwest fractional quarter of section one; the southeast quarter of the northeast fractional quarter, the northwest fractional quarter of the northeast fractional quarter, and the northwest fractional quarter of the northwest fractional quarter of section two; the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section eleven; the west half of the southwest quarter of section seventeen; the west half of the southwest quarter of 213 section twenty; the north half of the northeast quarter of section twenty-five; the north half of the northeast quarter, the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, the northeast quarter of the southwest quarter, and the southwest quarter of the southwest quarter of section twenty-seven; the south half of the northeast quarter, the northwest quarter, and the south half of section twenty-nine; the southeast quarter of the northeast quarter, the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section thirty; the east half of section thirty-one; the north half, the northwest quarter of the southwest fractional quarter, the lots numbered one and two, the north half of the southeast quarter, and the southwest quarter of the southeast quarter of section thirty-two, and the north half and the northwest quarter of the southwest quarter of section thirty-three, containing in all two thousand seven hundred and seven acres and thirty-eight hundredths of an acre, according to the official plats of survey of the said lands returned to the General Land Office by the surveyor general, and for which the governor of the said State of Michigan did, on the thirty-first day of January, one thousand eight hundred fifty-four, request a patent to be issued to the said State as required in the aforesaid act.

Now therefore know ye, that the United States of America, in consideration of the premises, and in conformity with the act of Congress aforesaid, have given and granted, and by these presents do give and grant, unto the said State of Michigan, in fee-simple, subject to the disposal of the legislature thereof, the tracts of land above described, to have and to hold the same, together with all the rights, privileges, immunities and appurtenances thereto belonging, unto the State of Michigan, in fee-simple, and to its assigns forever.

*In testimony whereof* I, James Buchanan, President of the United

States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

214 Given under my hand at the city of Washington, the seventeenth day of March, in the year of our Lord one [SEAL.] thousand eight hundred and fifty-seven, and of the Independence of the United States the eighty-first.

By the President :

JAMES BUCHANAN.

G. H. JONES,

*Ass't Secretary.*

I. W. GRANGER,

*Recorder of the General Land Office.*

Recorded vol. 2, pages 213 to 223, inclusive.

After like offer, objection, ruling and exception, defendant's counsel read

# EXHIBIT 114.

*Township 18 North, Range 3 West, Mer. Mich.*

Field-notes of U. S. survey of sections 20, 21, & from corner of sections 22, 23, 26, & 27, from which  
Beech, 10 S, 43 W, 65½.  
Sugar, 18 N, 56 E, 43½.

S 89° 15' E. Random between secs. 22 & 27.  
40.17 Old qr. sec. corner. Set post.  
80.34 Intersect N & S line at post.  
N 89° 15' W. Corrected between secs. 22 & 27.  
2.40 Lynn, 24 in.  
13.00 Descend bank 12 ft. C. S E, N W.  
14.00 Foot of bank in swamp C. S E, & W, N W.  
29.81 Hemlock, 14 in.  
32.32 Stream 50 l., C. S E.  
34.50 Leave Spy, bottom land C. S E, N W.  
37.45 Stream 3 l., C. N E.  
15 40.17 Old qr. sec. corner. Set post.  
Hemlock, 11 S, 62 E, 41.  
Sugar, 16 N, 42 W, 4.  
46.00 Descend bank 12 ft., C. N E, S W.  
47.25 Foot in bottom land C. N E, S W.  
49.00 Ascend bank and leave bottom land, C. N W, S E.  
50.56 Beach 11 & top of bank 18 ft.  
65.00 Stream, 50 l. C. N E & S W & enter Spy land.  
71.29 Y. birch, 16 in.  
77.00 Leave bottom land, C. N E & W, S W.  
80.34 Section corner.  
Hemlock, 5 N, 50 W, 13.  
Lynn, 16 S, 63 E, 17.  
Surface rolling, land 2d rate. Sugar, beech, lynn,  
W. pine, hemlock, &c.

<i>N 89° 15' E.</i>	Random between secs. 21 & 28 (no old line).
40.00	Set temp'y post.
80.02	Intersect N & S line at post.
<i>S 89° 15' W.</i>	Corrected between secs. 21 & 28.
6.18	Cedar, 16 in.
7.50	Leave swamp, C. N E & S W.
15.00	Stream C l., C. S E.
24.75	Descend bank 10 ft., C. S E, N W.
25.10	Foot of bank.
25.75	Stream 4 l., C. S E & ascend bank, 10 ft., C. N W & S E.
26.70	Top of bank.
33.80	W. pine, 20 in.
40.01	Set qr. sec. post.
	Hemlock, 13 N, 15 W, 15.
	Do. 14 S, 20 E, 30.
50.25	Hemlock, 14 in.
69.95	Do. 16 "
216	80.02 Section corner.
	Surface, moderately rolling; land, 2d rate. Timber—W. pine, hemlock, beech, maple, sugar, lynn, B. oak, W. ash, &c.
<i>N 89° 45' E.</i>	Random between secs. 20 & 29.
40.00	Set temp'y post.
80.24	Intersected N & S line at post.
<i>S 89° 45' W.</i>	Corrected between secs. 20 & 29.
8.96	Hemlock, 10, and enter swamp, C. N & S.
20.00	Leave swamp, C. N E & S W.
26.00	Enter swamp, C. N W & S. E.
29.89	Cedar, 6 in.
40.12	Set qr. sec. post.
	B. ash, 16 N, 10 W, 27½.
	Cedar, 8 S., 25 E, 3.
41.50	Leave swamp, C. N E & S W.
48.80	W. pine, 30 in.
68.00	Enter swamp, C. N, N E & S W.
70.10	B. ash, 8 in.
75.00	Leave swamp, C. N E, S W.
80.24	Section corner.
	Hemlock, 16 north, 27.
	Do. 13 S, 20 E, 33.
	Land, moderately rolling and poor, and broken by swales and swampy places. Timber—hemlock, W. pine, beech, maple, B. ash, tamarack, spruce, &c. No old work found.
<i>N 24' W.</i>	Between secs. 19 & 20.
12.03	Hemlock, 14 in.
32.54	Do. 16 "
34.00	Enter swamp, C. N E, S W.

- 217      40.00    Set  $\frac{1}{4}$  section post.  
                  Spruce, 8 S, 72 E, 19.  
                  Do.    8 S, 58 W, 31 $\frac{1}{2}$ .  
                  No old qr. corner.  
                  42.00    Leave swamp, C. N E, S W.  
                  53.35    Hemlock, 13 in.  
                  55.50    Enter swp, C. N E, S W.  
                  70.00    Leave    "    "    "  
                  72.34    Sugar, 7 in.  
                  80.00    Set post corner secs. 17, 18, 19 & 20.  
                  Hemlock, 17 N, 42 W, 23.  
                  Do.    13 S, 34 E, 42.  
                  No old corner found.  
                  Land fair, 2d rate. Broken by swales and swampy  
                  places. Timber, hemlock, W. pine, beech, maple,  
                  sugar, B. & W. ash, B. oak, &c.  
                  No old work in this portion of the township.
- S 30' E.*      Random between secs. 22 & 23.  
                  40.22    Intersect at qr. secs. corner.  
                  80.42    "    E & W line at post.
- N 30' W.*      Corrected between secs. 22 & 23.  
                  13.18    W. pine, 20 in.  
                  33.42    Do.    36 "  
                  40.20    Old qr. sec. corner set post.  
                  Maple, 12 N, 58 E, 19 $\frac{1}{2}$ .  
                  Beech, 11 S, 48 W, 22.  
                  50.86    Y. pine, 17 in.  
                  51.50    Enter mossy swale, nearly round.  
                  54.00    Leave    "    "    "    "  
                  60.00    Enter swale, C. N W & S E.  
                  66.00    Leave    "    "    "    "  
                  68.57    W. pine, 16 in.
- 218      80.42    Corner of secs 14, 15, 22 & 23.  
                  Set post old corner.  
                  Beach, 9 S, 8 E, 15.  
                  W. pine, 22 N, 61 E, 29.  
                  Land rolling, 2d rate. Timber, W. pine, hemlock,  
                  maple, sugar, beech, elm, lynn & Y. pine.
- S 89° 30' E.*    Random between secs. 15 & 22.  
                  40.93    Intersect at qr. sec. corner.  
                  80.17    Intersect N & S line at post.
- N 89° 30' W.*    Corrected between secs. 15 & 22.  
                  5.22    Aspen, 12 in.  
                  5.50    Enter swamp, C. North & S W.  
                  12.50    Leave    "    C. N E & S E.  
                  32.38    Beech, 11 in.  
                  40.76    Old qr. sec. corner set post.  
                  Hemlock, 13 N, 63 W, 23 $\frac{1}{2}$ .  
                  Do.    20 S, 20 W, 35.

	49.46	Hemlock, 14 in.
	56.50	Enter swamp, C. N E, S W.
	59.00	Leave " " " "
	65.00	Enter swamp, C. N & S.
	66.75	Y. birch, 12 in.
	75.50	Leave swamp, C. N W, S E.
	80.17	Sec. corner.
		Except swamp land, poor 2d rate. Timber, hemlock, W. pine, maple, beech, aspen, B. ash, cedar, &c.
<i>N 89° E.</i>		Random between secs. 16 & 21.
	40.00	Set tem'y post. No old line.
	80.00	Intersects, N & S. line at post.
<i>S 89° W.</i>		Corrected between secs. 16 & 21.
	5.00	Enter swamp, C. N E, S W.
219	10.32	W. pine, 14 in.
	20.00	Leave swamp, C. S E & N E.
	30.11	Hemlock, 18 in.
	40.00	Set qr. sec. post.
		W. pine, 28 S, 33½ W, 31.
		Do. 30 N, 12 E, 20.
	49.59	W. pine, 14 in.
	52.00	Enter swale, C. N W & S E.
	54.25	Leave " " "
	60.37	Maple, 12 in.
	80.00	Section corner.
		Land, level, 2d rate. Timber, W. pine, hemlock, beech, sugar, maple, in swales and swamps. Cedar, tamarack, Y. birch, maple, & B. ash.
<i>N 89° 39' E.</i>		Random between secs. 17 and 20.
	40.00	Set temp'y post.
	80.00	Intersect N & S line at post.
<i>S 89° 39' W.</i>		Corrected between secs. 17 & 20.
	0.70	W. pine, 30 in.
	1.50	Enter swamp, C. N W & south.
	16.00	Leave " C. N W & S E.
	29.69	Beech, 12 in.
	40.00	Set qr. section post.
		W. pine, 36 N, 27½ W, 36.
		Hemlock, 12 S, 10 W, 14.
		No old qr. found.
	47.50	Enter B. ash swale 150 lks, over C. N W & S E.
	50.00	W. pine, 20 in.
	77.89	Hemlock, 10 in.
	80.00	Section corner. No old work.
		Land good, 2d rate gravelly loam. Timber, W. pine, hemlock, beech, sugar, lynn, maple, B. ash & elm.

- 220 *S 30' E.* Random between secs. 21 & 22.  
 40.06 Intersect at qr. sec. corner.  
 80.24 Intersect E & W line at post.
- N 30' W.* Corrected between secs. 21 & 22.  
 10.06 Lynn, 24 in.  
 15.82 Stream, 5 l., C. S E.  
 16.45 Do. 5 l., C. S W.  
 29.15 Beech, 16 in.  
 39.20 Run 21, C. West.  
 40.18 Old qr. sec. corner. Set post.  
     Beech, 7 N, 80 W, 20.  
     Lynn, 11 S, 75 E, 15.  
 46.28 Lynn, 10 in.  
 62.87 B. ash, 10 in.  
 75.40 Hemlock, 12 in.  
 80.24 Section corner.  
     Land for most part 1st rate. Loamy soil. Timber,  
     sugar, beech, lynn, hemlock, W. pine, maple, &c.
- N 24' W.* \* Between secs. 20 & 21. No old line.  
 5.70 Enter swamp, C. N W & S E.  
 8.50 Leave " " S W & north.  
 11.88 Hemlock, 9 in.  
 12.50 Enter swamp, C. E and W.  
 18.70 Leave " " N E & S W.  
 31.81 Hemlock, 16 in.  
 33.00 Enter swale, C. N E & S W. (B. ash.)  
 40.00 Set qr. sec. post.  
     B. ash, 14 north, 14.  
     Elm, 7 S, 3 E, 6.  
 47.70 Leave swale, C. N E & S W.  
 51.96 B. ash, 14 in.  
 57.00 Enter swamp, C. E & W.  
 59.00 Leave " " "  
 221 69.00 Enter swamp, C. N E & S W.  
 71.77 B. ash, 12 in.  
 75.00 Leave swamp, C. N E & S W.  
 80.00 Set post corner of secs. 16, 17, 20 & 21.  
     Hemlock, 14 N, 45½ W, 40.  
     Do. 18 S, 78 E, 21.  
     Land level, swampy and poor. Timber, hemlock,  
     W. pine, maple, beech, sugar, B. ash, &c.  
     Field-notes of sections 28 & 29, from corner of sec-  
     tions 27, 28, 33 & 34.  
     Hemlock, S, 45 E, 3.  
     Do. 15 N, 9 E, 29.
- East.* Random between secs. 28 & 33.  
 No old line. From witness corner measured east  
 40 lks., thence N 24, W 85 lks., thence random.  
 80.70 Intersect N & S line at post.

<i>West.</i>	Corrected between secs. 28 & 33.
10.73	W. pine, 10 in.
21.70	Enter alder bottom, C. N & W, S W.
30.58	Tamarack, 14 in.
32.70	Leave bottom, C. N W & south.
40.35	Set qr. sec. post. Beech, 8 N, 38 E, 22. Y. pine, 20 S, 45 W, 42.
51.23	W. pine, 24 in.
67.70	Line crosses southerly bend of stream 50 links, C. N E, and an inlet 5 lks.
69.00	Leave bend of stream.
73.23	Hemlock, 14 in.
79.50	Enter river bottom, C. N E & S W.
80.30	Stream, 6 lks., C. N E.
222 80.70	Section corner in stream. Land, level, fair, 2d rate. Timber—W. pine, beech, hemlock, lynn, alder, B. ash, tamarack, cedar & elm.
	OCT. 20TH, 1856.
<i>N 89° 30' E.</i>	Random between secs. 29 & 32.
40.00	Set temp'y post.
80.60	Intersect N & S line at corner in river.
<i>S 89° 30' W.</i>	Corrected between secs. 29 & 32.
0.33	Leave river and set witness corner post. Cedar, 14 S, 60 W, 6. Lynn, 6 N, 54 W, 28.
2.00	Leave river bottom, C. N E, S W.
11.40	W. pine, 20 in.
30.40	W. ash, 16 in.
40.30	Set qr. sec. post. Beech, 10 N, 30 W, 22. Hem., 11 S, 27 E, 27.
	No old qr. found.
49.15	W. pine, 22 in., & enter swamp, C. N & S.
50.60	Stream, 20 l., C. south.
54.60	Ascend bank 28 ft., C. N & S & leave swamp C. N. & S.
55.35	Top, C. N & S.
65.60	Descend bank 30 ft., & enter swamp, C., S E & N W.
70.10	Stream, 50 l., C. south.
70.80	Leave swamp, C. N & S.
72.11	Hemlock, 16 in.
80.60	Section corner. Land, for most, fair; 2d rate. Timber—hemlock, beech, W. pine, maple, sugar, elm, lynn, B. oak, &c.



223

N 24' W.

- Between secs. 29 & 30.  
 9.40 Stream, 50 l., C. S, S E, and enter swamp, C. S, S E & W, N W.  
 13.22 Cedar, 8 in.  
 16.00 Leave swamp, C. N E & N W.  
 33.73 Sugar, 10 in.  
 36.00 Enter swamp, C. W, S W & E, N E.  
 40.00 Set qr. sec. post.  
     B. ash, 8 S, 20 W, 7.  
     " 22 N, 10 E, 43.  
     No old qr. found.  
 53.03 Balsam, 12 in.  
 61.00 Leave swamp, C. N W & S E.  
 63.00 Enter " C. E & W.  
 67.75 Stream, 15 l., C. east.  
 72.00 Leave swamp, C. N E & S W.  
 74.24 Hemlock, 10 in.  
 80.00 Set post corner secs. 19, 20, 29 & 30.  
     Maple, 14 S, 4 W, 11.  
     Hem., 8 N, 38 W, 23.  
     No old corner found.  
     Land 3d rate, broken by swales and swampy places.  
     Residue W. pine, hemlock, beech, balsam, B. ash, cedar, etc.; thick undergrowth of hemlock, beech, cedar, &c.

OCT. 23RD, 1856.

South.

Random between secs. 27 & 28.  
 No old line.

- 40.00 Set tem'y post.  
 80.33 Intersect 137 l. west of post.

N 1° W.

Corrected between secs 27 &amp; 28.

- 10.00 B. ash, 14 in.  
 11.00 Enter swamp, C. S W, N E.  
 23.00 Leave " " N E, S W.  
 30.47 W. pine 26 in.  
 40.16½ Set qr. sec. post.  
     W. oak, 12 S, 89 W, 35.  
     W. pine, 20 east, 13½.

224

- 50.31 Elm, 14 in.  
 72.11 W. pine, 14 in.  
 73.00 Enter bottom land, C. E & W.  
 75.73 Stream 50 l., C. east.  
 80.33 Old corner of secs. 21, 22, 27 & 28.  
     Set post in north border of bottom land.  
     C. N W & S E, on swampy land.  
     Hemlock, 5 N, 50 W, 13.  
     Lynn, 16 S, 63 E, 17.  
     Land poor, 3d rate. Timber, W. pine, hemlock, beech, maple, B. ash, &c.

<i>N 89° 15' E.</i>		Random between secs. 21 & 28. (No old line.)
	40.00	Set tem'y post.
	80.02	Intersect N & S line at post.
<i>S. 89° 15' W.</i>		Corrected between secs 21 & 28.
	6.18	Cedar, 16 in.
	7.50	Leave swamp, C. N E & S W.
	15.00	Stream, 6 l., C. S E.
	24.75	Descend bank 10 ft.; C. S E & N W.
	25.10	Foot of bank.
	25.75	Stream, 4 l.; C. S E, & ascend bank 10 ft.; C. N W & S E.
	26.70	Top of bank.
	33.80	W. pine, 20 in.
	40.01	Set qr. sec. post.
		Hem., 13 N, 15 W, 15.
		Do. 14 S, 20 E, 30.
	50.25	Hemlock, 14 in.
	69.95	Do. 16 "
225	80.02	Section corner.
		Surface moderately rolling. Land 2d rate. Timber, W. pine, hemlock, beech, maple, sugar, lynn, B. oak, W. ash, &c.
<i>N 89° 45' E.</i>		Random between secs. 20 & 29.
	40.00	Set temp'y post.
	80.24	Intersect N & S line at post.
<i>S 89° 45' W.</i>		Corrected between secs. 20 & 29.
	8.96	Hemlock, 10, & enter swamp, C. N & S.
	20.00	Leave swamp, C. N E & S W.
	26.00	Enter " C. N W & S E.
	29.89	Cedar, 6 in.
	40.12	Set qr. sec. post.
		B. ash, 16 N, 10 W, 27½.
		Cedar, 8 S, 25 E, 3.
	41.50	Leave swamp, C. N E & S W.
	48.80	W. pine, 30 in.
	68.00	Enter swamp, C. N, N E & S W.
	70.10	B. ash, 8 in.
	75.00	Leave swamp, C. N E & S W.
	80.24	Section corner.
		Land moderately rolling and poor, broken by swales and swampy places. Timber, hemlock, W. pine, beech, maple, B. ash, tamarack, spruce, &c. No old work found.
<i>N 24' W.</i>		Between secs. 28 & 29. No old line.
	.45	Leave river.
	6.70	" bottom land, C. N E & S W.
	11.45	Hemlock, 7 in.
	32.29	Sugar, 11 in.
	40.00	Set qr. sec. post.
		Beech, 13 N, 75 W, 13½.
		Sugar, 12 S, 65 E, 18.

- 51.86 Hemlock, 7 in.  
 72.01 Do. 9 in.  
 226 80.00 Set post corner secs. 20, 21, 28 & 29.  
       Beech, 8 N, 8½ W, 10½.  
       Do. 7 S, 12 E, 11.  
       Surface undulating, land 2d rate. Timber, W. pine,  
       hemlock, sugar, beech, maple, lynn, elm, B. ash,  
       alder and butternut.

*Field-notes of Sec. 35 from Corner of Secs. 35 & 36.*

Beech, 18 N, 43 W, 18.  
 Do. 10 N, 42 E, 30.

- West. Corrected on south side sec. 35.  
 8.06 Pine, 48.  
 31.31 Do. 20.  
 40.00 Set qr. sec. post.  
       Beech, 11 N, 80 E, 04.  
       Maple, 13 N, 51 W, 21.  
 48.06 Pine, 20.  
 66.75 Do. 22.  
 80.00 Set post corner secs. 34 & 35.  
       Land rolling, 2d rate. Timber, hemlock, pine,  
       beech, elm, maple, &c.  
       Aspen, 14 N, 23 E, 13.  
       Do. 10 N, 28 W, 15.

- N 24' W. Corrected between secs. 34 & 35.  
 10.67 W. oak, 14 in.  
 34.00 Enter swale, course N, N E & S, S W.  
 35.14 W. pine, 18 in.  
 36.50 Leave swale, courses N, N E & S, S W.  
 40.15 Old qr. sec. corner. Set post.  
       W. pine, 20 N, 63 W, 16.  
       Beech, 16 S, 10 E, 7.  
 45.72 Beech, 8 in.  
 65.59 Sugar, 14 in.  
 227 78.85 Corner of secs. 26, 27, 34, & 35.  
       Set post old corner.  
       Y. pine, 18 N, 48 W, 31½.  
       Beech, 13 S, 68 E, 15.  
       Land moderately rolling, poor 2d rate. Timber,  
       hemlock, W. pine, beech, maple, B. & W. oak,  
       lynn, and some Y. pine. Undergrowth of hem-  
       lock & beech.

- N 21' W. Corrected between secs. 35 & 36.  
 7.89 W. pine, 13 in.  
 33.11 Hemlock, 14 in.  
 38.73 Old qr. sec. corner. Set post.  
       Beech, 10 S, 70 E, 53.  
       Hemlock, 16 N, 38 W, 48.

<i>North.</i>		Corrected from qr. corner.
	39.95	Hemlock, 10 in.
	40.95	Run 7 lks., course east.
	48.00	Enter swampy border of stream, C. N W & S E.
	54.95	Stream 40 lks., course E, S E.
	57.50	Leave swampy border of stream, course W, N W, and E, S E.
	71.20	Beech, 18 in.
	78.95	Old corner of secs. 25, 26, 35, & 36. Set post.
		Hemlock, 18 N, 67 E, 56.
		Do. 20 S, 84 W, 60.
		Surface moderately rolling. Land 2d rate. Timber, hemlock, beech, sugar, W. pine, lynn, elm, maple, Y. birch, cedar, & B. ash.
<i>West.</i>		Corrected between secs. 26 & 35.
	8.02	W. pine, 16 in.
	18.00	Enter bottom land, course N W & S E.
	23.07	Stream 50 lks., course S E, clear.
228	30.57	Cedar, 8 in.
	40.23	Old qr. sec. corner. Set post.
		W. pine, 16 S, 64 W, 35.
		Cedar, 17 S, 65 E, 50.
<i>S 89° W.</i>		Corrected from qr. corner.
	42.00	Leave swamp, course N W & S E.
	49.50	B. ash, 9 in.
	71.00	Beech, 9 in.
	80.32	Section corner.
		Except swamp land, poor 3d rate. Timber, W. pine, hemlock, beech, lynn. In swamp, B. ash, cedar, hemlock, and W. pine.

I, Geo. H. Cannon, of Washington, Macomb county, State of Michigan, a deputy surveyor, do solemnly affirm that in pursuance of a contract with Leander Chapman, surveyor general of Michigan, bearing date the — day of September, A. D. 1856, and in strict conformity to the laws of the United States and the instructions of the said surveyor general, I have faithfully and correctly resurveyed township No. 18 north, of range No. 3 west, in the State of Michigan, and I do further solemnly affirm that the foregoing are the true and original field-notes of said survey executed as aforesaid.

GEO. H. CANNON,

*Deputy Surveyor.*

Subscribed by said Geo. H. Cannon, dep. surveyor, and sworn to before me, at Detroit, this 26th day of Dec., 1856.

FRANCIS WM. HUGHES,

*Notary Public, Wayne County, Michigan.*

229 After like offer, objection, ruling, and exception, defendant's counsel read

## EXHIBIT 115.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, April 21, 1852.

SIR: Your letter of 13th inst. has been received, acknowledging receipt of swamp land lists transmitted with my letter of 31st ultimo, and relative to certificates of approval attached to said lists, etc.

The certificate for the Kalamazoo list does not appear to admit of doubtful construction, and I enclose a certificate for the Grand River list, similar to it, to be substituted for the original, which should properly have been attached in the form of an explanatory note.

The lists have all been made up strictly in accordance with your instructions, and are as near accuracy, doubtless, as can be attained without a survey on the field, which would be entirely unpracticable.

The paragraph in my letter to which you refer was misunderstood. No doubts were entertained by this office respecting the character of the unsold lands, and the explanation was intended to relieve any doubts which might arise from an examination of the register's annotations at the department.

The remaining lists will be made up in conformity with your present instructions, leaving out of the lists all the tracts sold prior to 28th Sept., 1850.

Very respectfully your ob't serv't.

CHARLES NOBLE, *Sur. Gen'l.*

J. Butterfield, Esq., Comm'r.

Endorsed: No answer required, and the lists handed to Mr. Barnhill, P. D.

230 After like offer, objection, ruling, and exception, defendant's counsel read

## EXHIBIT 116.

LAND OFFICE, IONIA, MICH., September 23rd, 1854.

Commissioner of the General Land Office.

SIR: It appears from the maps of the old survey of certain townships, that certain lands situate therein have been selected by the surveyor general as State swamp lands, and the resurvey maps of those townships indicate that those lands are not swamp lands, and the approved list of swamp lands received by us also indicate that those lands are not swamp lands, because they are omitted in the approved list. We desire to be informed whether in such case, when the lands have been resurveyed and found not to be swamp lands,

and not so designated on the approved list, the same are subject to private entry at this office.

Respectfully yours,

ALEXANDER F. BELL, *Register.*

And after like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 117.

GENERAL LAND OFFICE, Oct. 3d, 1854.

Register of the land office, Ionia, Michigan.

SIR: I am in receipt of your letter of the 23d ulto., relating to swamp and overflowed lands in your district.

In reply thereto I would state that you will regard all selections reported to you by the surveyor general as valid until such time as you are furnished by him with lists designated as "in lieu  
231 of the originals in townships resurveyed and platted." Such lists will take the place of the originals, and give rise to the necessity of alterations in your tract books, which should be carefully made.

Where lands, however, have been approved, according to the old plats, no action can be taken thereon by you, until the claim of the State has been formally rejected.

Very respectfully your ob't serv't,

JOHN WILSON,  
*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read from the report of the commissioner of the State land office of Michigan, as

EXHIBIT 118.

*Report for the Year Ending November 30th, 1856—S. B. Treadwell,  
Commissioner.*

Page 11:

After referring to his last report concerning swamp lands, he says:

"Patents are now received for all these lands in the State except those situate in the Ionia land district, comprising about 1,200,000 acres, and for these we are assured the patents will soon be forwarded, the making of which have been delayed in consequence of extensive resurveys by the General Government, which in some instances changes the amount and character of the land." \* \* \*

Page 12:

After speaking of the application for the purchase of particular descriptions, he says they have been denied because "No valid sale could be made until after a compliance with the law requiring advertisement of a public offering to be published in each county  
232 of the State; and such public sale or offering has not been deemed advisable until after the title of the State to the grant

should be wholly confirmed by the issue of the patents, and the numerous corrections and restatements of the lists necessary to be previously made by the department at Washington."

Page 14:

Speaking of the character of these lands, he says: "It is well known that many tracts, and sometimes almost entire sections, are now considered as among the best of farming lands, or extensively covered with pine and other valuable timber."

After like offer, ruling, objection, and exception, defendant's counsel read

### EXHIBIT 119.

GENERAL LAND OFFICE, *February 24th, 1855.*

His excellency Kinsley S. Bingham, governor of Michigan, Lansing, Michigan.

SIR: The surveyor general of Michigan has transmitted to this office a list of swamp and overflowed lands in the Cheboygan district, Michigan, in townships "resurveyed and platted," which list "abrogates and supersedes all lists of swamp lands heretofore made of the townships contained within it."

Said list embraces selections in the following townships, viz:

Townships 21, 23.....	Range 4 west.
" 22, 23.....	" 5 "
" 22, 23, 24.....	" 6 "
" 22, 23, 25.....	" 7 "
" 21, 22, 24, 25.....	" 8 "
" 22, 23, 24, 25.....	" 9 "
" 26.....	" 10 "

The original selections in the foregoing townships, made from the defective plats, were approved in lists No. 1, 2 and 3 in the Ionia district, Michigan, certified copies whereof were transmitted to your predecessor, January 13, 16 and 18, 1854.

233 In consequence of the alteration necessary, by reason of the list recently received, I have the honor to request a suspension of all action upon the lists heretofore furnished you, so far as these several townships are concerned, until the differences can be ascertained and adjusted.

With great respect, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read from the report of the commissioner of the State land office for 1855 as

# EXHIBIT 120.

*Report of the Year Ending November 30th, 1855—Seymour B. Treadwell, Commissioner.*

## Swamp lands.

Page 9 :

" Patents not having been received during the past year at this office for the lands embraced in the lists heretofore received from the department at Washington of the swamp and overflowed lands granted to this State by the act of Congress of September 28th, 1850, no sales or public offering of this class of lands have been made.

The patents heretofore received embrace the lands of that description located in the Detroit, Genesee, and Kalamazoo land districts.

These patents we have carefully compared with the lists, and made the proper entries upon the plats and tract books in this office. Many descriptions contained in the list of these lands were erroneously sold at the different land offices of the United States, subsequent to the date of the grant to the State, and such sales  
234 were afterwards directed by the department at Washington to be canceled, and the purchase-money or warrants to be refunded to the purchasers, on return of their duplicates. In many cases such duplicates have been returned by the purchasers, and under the provisions of act No. 76 of the legislature of this State, approved February 14th, 1853, and of act No. 166, approved February 13, 1855 (being acts 'for the relief of purchasers of and settlers on swamp lands'), many of such purchasers and pre-emption claimants have filed in this office the evidence required by said acts, to entitle them to purchase of the State at the rate prescribed in said acts, viz., one dollar and twenty-five cents per acre. Upon examination of the patents, so far as received, we find that such descriptions so erroneously sold by the United States have been omitted from the patents, and this office has therefore, as yet, been unable to confirm the title of these purchasers, or to authorize the issue of patents to them from the proper State department."

Page 11 refers to act of Congress of March 2d, 1855, and says :

"That a list of the sales of swamp land made by the State was prepared, and, as required by said act, duly transmitted to the department at Washington, and a comparison made as to such conflicting sales.

"This State having, by the act approved June 28th, 1851, accepted the grant upon the basis of the notes of the surveys on file in the surveyor general's office, I am advised by letter from the Commissioner of the General Land Office that no further proof will be considered necessary in determining the character of the lands granted. This office was notified in February last, by letter from the Commissioner of the General Land Office, of the resurvey by the General Government of considerable tracts of land, embraced in the



lists of swamp lands, including several townships in the northern part of the State, situate principally in the Ionia land district, and the same have been, as directed, marked as suspended on our books. Information has also been received from the surveyor general's department that resurveys of a large number of townships in  
 235 which swamp lands are included, in the northern part of the State, have been in progress the past season. Whether any material difference in the quantity of land enuring to the State under the act of Congress will be effected by such resurveys cannot as yet be ascertained."

Page 12.

"The necessary preliminary steps not having been concluded by the department at Washington to perfect the transfer of the largest portion of these lands, as under the provision of the grant and the judicial construction alluded to in the last report of my predecessor would seem to be requisite in order to vest their disposal in the State, it has not been deemed advisable heretofore, for the reasons named, to again offer the remaining unsold lands in the three districts for which patents were received."

And after like offer, objection, ruling, and exception defendant's counsel read

#### EXHIBIT 121.

GENERAL LAND OFFICE, *June 18th, 1864.*

Arnold Kaichen, Esq., register. Detroit, Mich.

SIR: In reply to that portion of your letter of the 13th inst. having reference to swamp lands, I have to state that the list of swamp selections transmitted to you under the date of April 15th, 1864, was made from the field-notes of the *old surveys*. After the resurveys were made, new selections of swamp lands were also made and transmitted to this office, but before these new selections were received the office had *approved* and *patented* to the State most of the selections for the same townships under the *old surveys*. This was the case with the townships included in the list sent you on the 15th April last.

The "supplemental list D" to which you refer was made from the *resurveys*, and was originally intended to abrogate or supersede the old list in the townships contained in said "supplemental  
 236 list D," but inasmuch as the selections under the old surveys in that portion of the Detroit district had been acted upon and carried into patent that course was found to be impracticable.

As this office cannot recognize two lists of swamp selections for the same townships made from different and conflicting surveys, and having, as stated, acted upon *one*, we must of necessity ignore the other.

You will, therefore, consider the *original list* made under the *old surveys*, a copy in part of which was sent you on 15th April last as being the only list to govern you in the townships therein contained.

In reference to sec. 23, T 31 N, R. S E, mentioned in your letter,

it appears from our records that the whole of fractional section 23 (*old surveys*) was selected as swamp land, and the following tracts in that section have been approved and patented to the State as swamp, viz:

N W $\frac{1}{4}$ 23, 31, 8.....	160	acres.
Lot No. 1, 23, 31, 8.....	65.60	"
" " 2, 23, 31, 8.....	40.83	"
" " 3, 23, 31, 8.....	32.17	"
N W $\frac{1}{4}$ of N E $\frac{1}{4}$ 23, 31, 8.....	40	"

The remainder of the section was sold prior to the passage of the swamp grant.

Very respectfully, your ob't serv't.

(Signed)

J. M. EDMUNDS,

*Commissioner.*

237 After like offer, objection, ruling, and exception, defendant's counsel read from the report of the Commissioner of the General Land Office for 1864, as

#### EXHIBIT 122.

Page 17, 1864, Sec. of Int.:

Discrepancies in Michigan swamp selections have arisen creating embarrassment both in the United States and State governments, growing out of the fact that certain townships in that State, in which the original surveys had been found defective, swamp selections were made from the field-notes of those defective surveys, and subsequently resurveys were made, and from the plats of the latter other and different selections in the same townships were reported. Prior to the reception of these we had approved and patented to the State most of the selections made under the *old* or defective surveys. New selections cannot, therefore, be admitted in the same townships where the first or old ones had been patented.

To remove the difficulty and enable the United States to give to Michigan a good title to the swamp tracts and dispose of the residue or fast lands in such townships, it is necessary for the State to relinquish her title to the swamp tracts acquired under the old surveys, taking in lieu thereof an equal quantity of such lands described as swamp in the new surveys.

After like offer, objection, ruling, and exception, defendant's counsel put in evidence the following plat of resurvey of township 18 north, of range 3 west, State of Michigan, and same was marked

#### EXHIBIT 123.

(See opposite page.)

(Here follows diagram marked page 237a.)

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED



238 After like offer, objection, ruling and exception, defendant's counsel read from the records of the State land office

## EXHIBIT 124.

(Original.)

*Supplemental List No. 3.*

List of swamp or overflowed lands prepared under the act of Congress approved Sept. 28, 1850, and in accordance with instructions from the Commiss'r of the General Land Office, *situate in Grand River land district*, in the State of Michigan, in townships *resurveyed* and platted to May 1, 1858, this list being intended to supersede or be in place of lists of swamp lands heretofore made of townships contained in it.

Description.	Sec.	Town.	Range.	Content <sup>z</sup>	Remarks.
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	1	18 N	3 W	39.62	N. P.*
S E $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	"	"	"	40.00	N. P.
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	4	"	"	41.67	
S W $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	"	"	"	40.00	
N W $\frac{1}{4}$ S W $\frac{1}{4}$ ...	"	"	"	40.00	
N E fr. $\frac{1}{4}$ N E fr. $\frac{1}{4}$ .	5	"	"	41.92	
S E $\frac{1}{4}$ N E fr. $\frac{1}{4}$ ...	"	"	"	40.00	
S W $\frac{1}{4}$ S W $\frac{1}{4}$ ...	"	"	"	40.00	
N E $\frac{1}{4}$ S E $\frac{1}{4}$ ...	"	"	"	40.00	
S $\frac{1}{2}$ S E $\frac{1}{4}$ ...	"	"	"	80.00	
S W $\frac{1}{4}$ N E fr. $\frac{1}{4}$ ...	6	"	"	40.00	
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .	"	"	"	39.95	
S E $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ...	"	"	"	40.00	
E $\frac{1}{2}$ S W fr. $\frac{1}{4}$ ...	"	"	"	80.00	
S E $\frac{1}{4}$ ...	"	"	"	160.00	
N E $\frac{1}{4}$ N E $\frac{1}{4}$ ...	7	"	"	40.00	
W $\frac{1}{2}$ N W $\frac{1}{4}$ ...	8	"	"	80.00	
S E $\frac{1}{4}$ N W $\frac{1}{4}$ ...	"	"	"	40.00	
N $\frac{1}{2}$ S W $\frac{1}{4}$ ...	"	"	"	80.00	
239 S E $\frac{1}{4}$ S W $\frac{1}{4}$ .	1	18 N	3 W	40.00	
S W $\frac{1}{4}$ S E $\frac{1}{4}$ .	"	"	"	40.00	
N $\frac{1}{2}$ N E $\frac{1}{4}$ ...	12	"	"	80.00	
S W $\frac{1}{4}$ N E $\frac{1}{4}$ ...	14	"	"	40.00	*N. P. Sold prior to the resurvey.
N $\frac{1}{2}$ N W $\frac{1}{4}$ ...	"	"	"	80.00	N E of N W $\frac{1}{4}$ N. P.
S E $\frac{1}{4}$ N W $\frac{1}{4}$ ...	"	"	"	40.00	N. P.
N W $\frac{1}{4}$ S E $\frac{1}{4}$ ...	"	"	"	40.00	N. P. Sold prior to the resurvey.
N E $\frac{1}{4}$ N E $\frac{1}{4}$ ...	17	"	"	40.00	N. P. " " " "
S E $\frac{1}{4}$ S E $\frac{1}{4}$ ...	19	"	"	40.00	N. P.
S W $\frac{1}{4}$ S E $\frac{1}{4}$ ...	26	"	"	40.00	

\* Small type under "Remarks" in pencil in original copy.

Description.	Sec.	Town.	Range.	Contents.	Remarks.
N E $\frac{1}{4}$ N E $\frac{1}{4}$ .....	28	18 N	3 W	40.00	
S $\frac{1}{2}$ N E $\frac{1}{4}$ .....	"	"	"	80.00	
E $\frac{1}{2}$ S W $\frac{1}{4}$ .....	"	"	"	80.00	S E $\frac{1}{4}$ of S W $\frac{1}{4}$ N. P.
S W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	N. P.
W $\frac{1}{2}$ S E $\frac{1}{4}$ .....	"	"	"	80.00	S W $\frac{1}{4}$ of S E $\frac{1}{4}$ N. P.
W $\frac{1}{2}$ N E $\frac{1}{4}$ .....	29	"	"	80.00	S W $\frac{1}{4}$ of N E $\frac{1}{4}$ N. P.
N E $\frac{1}{4}$ N W $\frac{1}{4}$ .....	"	"	"	40.00	
S $\frac{1}{2}$ N W $\frac{1}{4}$ .....	"	"	"	80.00	
N $\frac{1}{2}$ S W $\frac{1}{4}$ .....	"	"	"	80.00	N. P.
S W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	N. P.
N E $\frac{1}{4}$ .....	30	"	"	160.00	
E $\frac{1}{2}$ N W fr. $\frac{1}{4}$ .....	"	"	"	80.00	
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .....	"	"	"	54.17	
N $\frac{1}{2}$ S E $\frac{1}{4}$ .....	"	"	"	80.00	
S W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	34	"	"	40.00	
N E $\frac{1}{4}$ .....	36	"	"	160.00	
E $\frac{1}{2}$ N W $\frac{1}{4}$ .....	"	"	"	80.00	
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .....	1	18 N	4 W	38.02	<sup>2,817.33†</sup> N. P.
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .....	"	"	"	38.02	6-73.
S $\frac{1}{2}$ N W fr. $\frac{1}{4}$ .....	"	"	"	80.00	N. P., 6-73.
N $\frac{1}{2}$ S W $\frac{1}{4}$ .....	"	"	"	80.00	N. P.
S E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	N. P.
N W fr. $\frac{1}{4}$ N E fr. $\frac{1}{4}$ .....	2	"	"	37.47	
S $\frac{1}{2}$ N E fr. $\frac{1}{4}$ .....	"	"	"	80.00	S. W $\frac{1}{4}$ of N E $\frac{1}{4}$ , N. P., 6-73.
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .....	"	"	"	37.11	N. P.
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ .....	"	"	"	36.75	S E $\frac{1}{4}$ of N W of 2, 6-73.
N E $\frac{1}{4}$ S E $\frac{1}{4}$ .....	"	"	"	40.00	N. P., 6-73.
240 S E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	11	18 N	4 W	40.00	* N. P.
N E $\frac{1}{4}$ S E $\frac{1}{4}$ .....	"	"	"	40.00	
S $\frac{1}{2}$ S E $\frac{1}{4}$ .....	"	"	"	80.00	
N E $\frac{1}{4}$ N W $\frac{1}{4}$ .....	12	"	"	40.00	N. P.
S $\frac{1}{2}$ N W $\frac{1}{4}$ .....	"	"	"	80.00	N. P.
S V $\frac{1}{4}$ .....	"	"	"	160.00	N. P.
S $\frac{1}{2}$ S W $\frac{1}{4}$ .....	28	"	"	80.00	N. P.
S $\frac{1}{2}$ S E $\frac{1}{4}$ .....	"	"	"	80.00	N. P.
N E $\frac{1}{4}$ .....	29	"	"	160.00	N $\frac{1}{2}$ of N E $\frac{1}{4}$ , N. P.
S $\frac{1}{2}$ N W $\frac{1}{4}$ .....	"	"	"	80.00	
S W $\frac{1}{4}$ .....	"	"	"	160.00	
S E $\frac{1}{4}$ .....	"	"	"	160.00	
E $\frac{1}{2}$ S E $\frac{1}{4}$ .....	30	"	"	80.00	
N E $\frac{1}{4}$ .....	31	"	"	160.00	
S E $\frac{1}{4}$ .....	"	"	"	160.00	
N E $\frac{1}{4}$ .....	32	"	"	160.00	

\*Small type under "Remarks" in pencil in original copy.

†2,817.33 in red ink in original.

Description.	Sec.	Town.	Range.	Contents.	Remarks.
N W $\frac{1}{4}$ . . . . .	32	18 N	4 W	160.00	
N E $\frac{1}{4}$ S W fr. $\frac{1}{4}$ . . .	"	"	"	40.00	
N W $\frac{1}{4}$ S W fr. $\frac{1}{4}$ . . .	"	"	"	40.00	
S W fr. lot S W fr. $\frac{1}{4}$ . .	"	"	"	38.67	6-73.
N $\frac{1}{2}$ N E $\frac{1}{4}$ . . . . .	33	"	"	80.00	
N $\frac{1}{2}$ N W $\frac{1}{4}$ . . . . .	"	"	"	80.00	2,666.04†

\* Small type under "Remarks" in pencil in original copy.  
 † 2,666.04 in red ink in original.

I certify that the foregoing list of swamp and overflowed lands, prepared under act of Congress Sept. 28th, 1850, has been correctly made from the original plats of townships that have been resurveyed in the Grand River land district in the lower peninsula of Michigan.

C. L. EMERSON,  
*Sur'r Gen'l.*

Surveyor general's office, St. Paul, May 13th, 1858.

241 After like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 125.

SURVEYOR GENERAL'S OFFICE,  
 ST. PAUL, May 12, 1858.

Hon'ble Thos. A. Hendricks, Commiss'r General Land Office, Washington, D. C.

SIR: I have this day forwarded to you in separate packages the following supplemental lists of swamp or overflowed land in the lower peninsula of Michigan in townships that have been resurveyed and platted since the date of the last supplemental lists of same land districts, to wit, the "Cheboygan," "Grand River" and "Saginaw" land districts.

These lists complete the swamp land lists for Michigan, with the exception of T. 28 N, R. 1 W, & a portion of Jos. Knauer's district N. of the correction line & E. of the meridian, which required correction in the field before they could be approved.

Duplicate copies of the above lists have been forwarded to the registers of the respective land offices.

I am, very respectfully, your obed't serv't,

C. L. EMERSON, *Sur. Gen'l.*

And after like offer, objection, ruling and exception, defendant's counsel read

## EXHIBIT 126.

GENERAL LAND OFFICE, *May 20th*, 1858.

C. L. Emerson, Esq., surveyor general, St. Paul, Minnesota.

SIR: I have to acknowledge the receipt of your letter of the 12th instant transmitting three lists of swamp-land selections under 242 the act of September 28th, 1850, to supersede the lists of such lands heretofore reported to this office, made in the townships therein described, viz:

Original supplemental list E, Cheboygan dist.

Do. " No. 2, Saginaw "

Do. " No. 3, Grand River dist.

All in Michigan.

Very respectfully, your ob't serv't,

THOS. A. HENDRICKS,

*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read from a certified copy from the State land office of Michigan

## EXHIBIT 127.

*Approved List No. 10, Ionia.*

No. 10.

A list of swamp and overflowed lands selected as enuring to the State of Michigan under the provision of the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Ionia, Michigan.

	Sec.	Town. N.	Range W.	Acres.
N W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ ....	4	18	3	41.67
S W $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	4	"	"	40.00
N W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	4	"	"	40.00
N E fr'l $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ ....	5	"	"	41.92
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	5	"	"	40.00
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	5	"	"	40.00
N E $\frac{1}{4}$ of S E $\frac{1}{4}$ ..	5	"	"	40.00
S $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	5	"	"	80.00
S W $\frac{1}{4}$ of N E $\frac{1}{4}$ ..	6	"	"	40.00
S E $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	6	"	"	40.00
E $\frac{1}{2}$ of S W fr'l $\frac{1}{4}$ .....	6	"	"	80.00
S E $\frac{1}{4}$ ..	6	"	"	160.00
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ ..	7	"	"	40.00
W $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	8	"	"	80.00
S E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	8	"	"	40.00

Erasure in pencil in original copy.



	Sec.	Town. N.	Range W.	Acres.	
243 N $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	8	18	3	80.00	
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	8	"	"	40.00	
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	8	"	"	40.00	
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	12	"	"	80.00	
N W $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	14	"	"	40.00	
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	26	"	"	40.00	
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	28	"	"	40.00	
S $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	28	"	"	80.00	
N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	28	"	"	40.00	
N $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	28	"	"	80.00	
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	29	"	"	80.00	
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	29	"	"	40.00	
S $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	29	"	"	80.00	160359
N E $\frac{1}{4}$ .....	30	"	"	160.00	
E $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	30	"	"	80.00	
N W $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	30	"	"	40.00	160359
N $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	30	"	"	80.00	
N E $\frac{1}{4}$ .....	36	"	"	160.00	
E $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	36	"	"	80.00	
Lot No. 1.....	25	25	3	20.94	
Lot No. 3.....	25	"	"	40.01	
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	25	"	"	40.00	
N E $\frac{1}{4}$ .....	36	"	"	160.00	
N W $\frac{1}{4}$ .....	36	"	"	160.00	
S W $\frac{1}{4}$ .....	36	"	"	160.00	

Erasures and small figures in pencil in original.

GENERAL LAND OFFICE, *May 15, 1866.*

This is to certify that the foregoing tracts of land were duly reported to this office as swamp land, and that they have been carefully tested with the field-notes of public surveys and plats, and found therefrom to be swamp and overflowed lands.

FINLEY C. LATTIMORE, *Clerk.*

GENERAL LAND OFFICE, *May 15th, 1866.*

Respectfully submitted for approval.

(Signed)

J. M. EDMUNDS,  
*Commissioner.*

244

DEPARTMENT OF THE INTERIOR, *May 18th, 1866.*

The foregoing list of selections is hereby approved, subject to any valid legal rights that may exist to any of the tracts therein described.

(Signed)

JAS. HARLAN, *Secretary.*

GENERAL LAND OFFICE, *May 26th, 1866.*

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the foregoing is a true copy of approved list No. — of swamp and overflowed lands selected as enuring to the State of Michigan under the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Ionia, Michigan.

*In testimony whereof* I have hereunto subscribed my name and caused to be affixed the seal of the General Land Office, at the city of Washington, the day and year above written.

J. M. EDMUNDS,  
*Commissioner.*

After like offer, objection, ruling, and exception defendant's counsel read

EXHIBIT 128.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, *May 26th, 1866*

His excellency the governor of Michigan, Lansing, Mich.

SIR: I have the honor to transmit herewith a certified copy of approved list No. 10 of swamp and overflowed lands in the Ionia district, selected as enuring to the State of Michigan under the act of Congress approved Sept. 28th, 1850, embracing 7,071.45 acres.

245 You will please to acknowledge the receipt of said list, and transmit your request for the patent to issue, on the receipt of which, or as soon thereafter as practicable, patent will be issued conveying the fee-simple in said lands to the State.

Very respectfully, &c., J. M. EDMUNDS,  
*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 129.

STATE OF MICHIGAN, EXECUTIVE OFFICE,  
LANSING, *May 31, 1866.*

Hon. J. M. Edmunds, Commissioner of the Gen'l Land Office, Washington, D. C.

SIR: I have the honor to acknowledge the receipt of a certified copy of approved list No. 10 of swamp and overflowed lands in the Ionia district, selected as enuring to the State of Michigan under the act of Congress approved Sept. 28th, 1850, embracing 7,071.45 acres.

I also have the honor to request that the patents for said lands may issue to the State of Michigan, as soon as practicable, conveying the fee-simple title thereof to said State.

I have the honor to be, very respectfully, yours, &c.,  
HENRY H. CRAPO,  
*Governor of Michigan.*

246 After like offer, objection, ruling and exception, defendant's counsel read from a certified copy from the State land office

## EXHIBIT 130.

## No. 20.

## THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, Greeting :

*Whereas* by the act of Congress approved September 28, 1850, entitled, "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," it is provided that all the "swamp and overflowed lands" made unfit thereby for cultivation within the State of Michigan, which remained unsold at the passage of said act, shall be granted to said State.

*And whereas* in pursuance of instructions from the General Land Office of the United States, the several tracts or parcels of land herein-after described have been selected as *swamp and overflowed lands*, enuring to the said State under the act aforesaid, being situated in the district of lands subject to sale at Ionia, Michigan, to wit :

## Township 18 N, R 3 west.

The northwest fractional quarter of the northwest fractional quarter, the southwest quarter of the northwest fractional quarter, and the northwest quarter of the southwest quarter of section four ; the northeast fractional quarter of the northeast fractional quarter, the southeast quarter of the northeast fractional quarter, the southwest quarter of the southwest quarter, the northeast of the southeast quarter, and the south half of the southeast quarter of section five ; the southwest quarter of the northeast quarter, the southeast quarter of the northwest fractional quarter, the east half of the southwest fractional quarter, and the southeast quarter of section six ; the northeast quarter of the northeast quarter of section seven ; the west half of the northwest quarter, the southeast quarter of the northwest quarter, the north half of the southwest quarter, the southeast quarter of the southwest quarter, and the southwest quarter of the southeast quarter of section eight ; the north half of the northeast quarter of section twelve ; the northwest quarter of the northwest quarter of section fourteen ; the southwest quarter of the southeast quarter of section twenty-six ; the northeast quarter of the northeast quarter, the south half of the northeast quarter, the northeast quarter of the southwest quarter, and the north half of the southeast quarter of section twenty-eight ; the north half of the northeast quarter, and northeast quarter of the northwest quarter, and the south half of the northwest quarter of section twenty-nine ; the northeast quarter, the east half of the northwest quarter, the northwest quarter of the northwest quarter, and the north half of the southeast quarter of section thirty ; the northeast quarter, and the east half of the northwest quarter of sec-

tion thirty-six; containing in all two thousand two hundred and three acres and fifty-nine hundredths of an acre.

Township 28 N, R 3 west.

The lot numbered one, the lot numbered three, and the southeast quarter of the southwest quarter of section twenty-five; the northeast quarter, the northwest quarter, and the southwest quarter of section thirty-six; containing in all five hundred and eighty-one acres and ninety-five hundredths of an acre, according to the official plats of survey of said lands returned to the General Land Office, by the surveyor general, and for which the governor of the said State of Michigan did, on the thirty-first day of May, one thousand eight hundred and sixty-six, request a patent to be issued to the said State, as requested in the aforesaid act:

*Now, therefore, know ye, that the United States of America*, in consideration of the premises and in conformity with the act of  
248 Congress aforesaid, have given and granted and by these presents do give and grant unto the said State of Michigan, in fee-simple, subject to the disposal of the legislature thereof, the tracts of land above described.

To have and to hold the same, together with all the rights, privileges, immunities and appurtenances thereto belonging, unto the said State of Michigan, in fee-simple, and to its assigns forever.

*In testimony whereof*, I, Andrew Johnson, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

[SEAL.] Given under my hand at the city of Washington, the twenty-first day of June, in the year of our Lord one thousand eight hundred and sixty-six, and of the Independence of the United States the ninetieth.

By the President:

ANDREW JOHNSON,  
By EDW. D. NEILL, *Secretary*.  
I. W. GRANGER,  
*Recorder of the General Land Office.*

Recorded vol. 2, pages 296 to 298 inclusive.

After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 131.

K.	DEPARTMENT OF THE INTERIOR.	H. A. W.
	GENERAL LAND OFFICE.	E. K.
	WASHINGTON, D. C., March 25th, 1873.	

His excellency the governor of Michigan, Lansing, Mich.

SIR: I have the honor to acknowledge the receipt of your letter of the 4th inst., addressed to the Secretary of the Interior, referred by him to this office, enclosing a list of lands in townships 35, 36, 37, 38 and 39 N, R 3 W, Mich., asking that said  
249 lands be patented to the State of Michigan as swamp lands.

In reply I have to state that an examination of our records shows that the lands described in the list transmitted by you were selected as swamp lands in 1852, and were shortly afterwards approved, but never patented to the State.

Upon credible representations that the surveys in the above-mentioned townships and range (under which the selections were made) were imperfect and defective, a resurvey was ordered, and new swamp-land selections were reported to this office to supersede the list reported under the defective survey.

In the list reported under the resurvey the greater part of the lands described in the list accompanying your letter do not appear, consequently they are not recognized by this office as swamp selections.

The swamp-land selections in the aforesaid townships and range which were reported under the resurvey have been suspended from patent on account of the order of the President reserving said lands for Indian purposes.

Very respectfully, your ob't s'v't,

WILLIS DRUMMOND,

*Commissioner.*

After like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 132.

APRIL 15TH, 1875.

Hon. S. S. Burdette, Com'r General Land Office, Washington, D. C.

SIR: I have the honor to transmit herewith a list of swamp and overflowed lands in townships 35 and 36 N, R 3 west, contained in supplemental list "C," Cheboygan (now Traverse City) land district of townships resurveyed. Approval and patents to the State had heretofore been suspended on account of the order of the President reserving said townships for Indian purposes. The suspension having now been removed, I respectfully request that the lists of lands herewith enclosed be approved and patented to the State at an early day.

Very resp'ly, your ob't servant,

L. A. CLAPP,

*Com'r State Land Office.*

After like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 133.

"K."

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

WASHINGTON, D. C., Nov. 10, 1875.

H. W. B.

E. K.

His excellency the governor of Michigan, Lansing, Mich.

SIR: Your letter of the 28th ult. is received, calling our attention to a list of lands in townships 35 and 36 north, of range 3 west, Michigan, transmitted to this office by commissioner of State lands

with his letter of 15th April last. In reply, you are informed that said list has been compared with the official records, and such tracts embraced therein as have been found free from conflict have this day been submitted to the Secretary of the Interior for approval to the State of Michigan as swamp and overflowed lands.

Very respectfully,

W. W. CURTIS,

*Acting Commissioner.*

251 After like offer, objection, ruling, and exception, defendant's counsel read from the records of the State land office,

### EXHIBIT 134.

#### No. 22.

A list of swamp and overflowed lands selected as enuring to the State of Michigan under the provision of the act of Congress approved September 28, 1850, in the district of lands subject to sale at *Traverse City*, viz:

Parts of sections.	Sec.	T. N.	R. W.	Acres.
Lot No. 1 . . . . .	6	35	3	43.60
" " 2 . . . . .	6			39.92
" " 3 . . . . .	6			29.45
S W $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ . . . . .	6			27.20
N W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ . . . . .	6			27.20
S W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ . . . . .	6			27.20
Fractional . . . . .	22			39.04
E $\frac{1}{2}$ of N E $\frac{1}{4}$ . . . . .	25			80.00
S E $\frac{1}{4}$ . . . . .	25			160.00
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ . . . . .	28			40.00
S E $\frac{1}{4}$ " N W $\frac{1}{4}$ . . . . .	28			40.00
N W $\frac{1}{4}$ " S W $\frac{1}{4}$ . . . . .	28			40.00
N E $\frac{1}{4}$ " S E $\frac{1}{4}$ . . . . .	29			40.00
S E $\frac{1}{4}$ " S W $\frac{1}{4}$ . . . . .	29			40.00
S W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ . . . . .	30			26.82
N W $\frac{1}{4}$ " N W fr. $\frac{1}{4}$ . . . . .	31			27.30
E $\frac{1}{2}$ " N W $\frac{1}{4}$ . . . . .	31			80.00
S W $\frac{1}{4}$ " N E $\frac{1}{4}$ . . . . .	31			40.00
N E $\frac{1}{4}$ " S E $\frac{1}{4}$ . . . . .	31			40.00
South half . . . . .	32			320.00
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ . . . . .	33			40.00
N E $\frac{1}{4}$ " N E $\frac{1}{4}$ . . . . .	36			40.00
W $\frac{1}{2}$ " N E $\frac{1}{4}$ . . . . .	36			80.00
S E $\frac{1}{4}$ " N W $\frac{1}{4}$ . . . . .	36			40.00
S W $\frac{1}{4}$ " S W $\frac{1}{4}$ . . . . .	36			40.00
E $\frac{1}{2}$ " S W $\frac{1}{4}$ . . . . .	36			80.00
N W $\frac{1}{4}$ of S E $\frac{1}{4}$ . . . . .	36			40.00
				1,567.73

Parts of sections.		Sec.	T.	R.	Acres.
			N.	W.	
252	N E fr. $\frac{1}{4}$ .....	1	36	3	157.30
	E $\frac{1}{2}$ of N W fr. $\frac{1}{4}$ .....	"			75.78
	S E fr. $\frac{1}{4}$ .....	1			165.62
	Lot No. 1.....	3			29.50
	" " 2.....	"			32.85
	S W $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	3			40.00
	N W $\frac{1}{4}$ " N E fr. $\frac{1}{4}$ .....	4			37.38
	S $\frac{1}{2}$ " N E $\frac{1}{4}$ .....	4			80.00
	E $\frac{1}{2}$ " N W $\frac{1}{4}$ .....	4			77.63
	N $\frac{1}{2}$ " S W $\frac{1}{4}$ .....	4			80.00
	N W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	4			40.00
	Lot No. 1.....	4			39.40
	" " 2.....	4			21.40
	" " 3.....	4			24.30
	" " 4.....	4			21.85
	" " 5.....	4			34.55
	" " 1.....	8			35.35
	" " 2.....	8			21.20
	W $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	8			80.00
	Fraction of.....	9			1.15
	E $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	11			80.00
	S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	11			40.00
	N E $\frac{1}{4}$ " N E fr. $\frac{1}{4}$ .....	12			43.43
	N W $\frac{1}{4}$ " N E fr. $\frac{1}{4}$ .....	12			43.93
	S W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	12			43.89
	S W $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	12			44.86
	S E $\frac{1}{4}$ " N W fr. $\frac{1}{4}$ .....	12			44.36
	N W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ .....	12			43.12
	Lot No. 3.....	14			14.30
	" " 4.....	14			24.90
	" " 5.....	14			8.65
	Lot No. 3.....	17			47.05
	" " 4.....	17			46.20
	N W $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ .....	18			26.94
	S W $\frac{1}{4}$ " N W fr. $\frac{1}{4}$ .....	18			26.82
	S E $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	18			40.00
	N W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ .....	18			26.70
	S W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ .....	18			26.57
	E $\frac{1}{2}$ " S W fr. $\frac{1}{4}$ .....	18			80.00
	N W $\frac{1}{4}$ " N W fr. $\frac{1}{4}$ .....	19			26.47
	S W $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ .....	19			26.41
253	N E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	19			40.00
	N W $\frac{1}{4}$ " N E $\frac{1}{4}$ .....	19			40.00
	S E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	19			40.00
	S E $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	19			160.00
	N W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ .....	19			40.00
	S W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ .....	19			26.35
	N W $\frac{1}{4}$ .....	20			26.29
					160.00

Parts of sections.	Sec.	T. R.	Acres.
		N. W.	
Lot No. 1 .....	20		15.80
" " 2 .....	20		26.20
" " 3 .....	20		29.30
N E $\frac{1}{4}$ of S W fr. $\frac{1}{4}$ .....	20		29.50
N W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ .....	20		29.30
S W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ .....	20		42.20
Lot No. 3 .....	29		59.40
" " 4 .....	29		34.00
" " 5 .....	29		34.35
N W $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ .....	29		42.32
N E $\frac{1}{4}$ .....	30		160.00
E $\frac{1}{2}$ " N W $\frac{1}{4}$ .....	30		80.00
N W $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	30		25.94
S W $\frac{1}{4}$ " N W fr. $\frac{1}{4}$ .....	30		25.30
N W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ .....	30		24.66
S W $\frac{1}{4}$ " S W fr. $\frac{1}{4}$ .....	30		24.02
E $\frac{1}{2}$ " S W $\frac{1}{4}$ .....	30		80.00
S E $\frac{1}{4}$ .....	30		160.00
Lot No. 1 .....	31		36.90
" " 2 .....	31		39.35
" " 4 .....	31		29.90
" " 5 .....	31		32.60
" " 6 .....	31		48.59
N W $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ .....	31		24.23
Fractional .....	32		20.45
Grand total .....			3,586.81
Grand total .....			5,154.54

GENERAL LAND OFFICE, November 9, 1875.

This certifies that the tracts described in the foregoing list were duly selected and reported to this office as swamp land prior to the passage of the confirmatory act of March 3, 1857, and from  
 254 an examination of the tract books it appears that said lands are vacant and unappropriated, and not interfered with by any actual settlement under any existing laws of the United States.

H. W. BABBITT,  
*Exam'g Clerk.*

E. KILLPATRICK,  
*Head of Swamp Division.*

DEPARTMENT OF THE INTERIOR,  
 GENERAL LAND OFFICE, Nov. 9, 1875.

Respectfully submitted for approval.

W. W. CURTIS,  
*Acting Commissioner.*



DEPARTMENT OF THE INTERIOR, November 11, 1875.

The foregoing swamp-land selections are hereby approved, subject to any valid legal rights that may exist thereto.

Z. CHANDLER, *Secretary*.

I, S. S. Burdett, Commissioner of the General Land Office, certify that the foregoing is a true copy of approved list No. 22, of swamp and overflowed lands, selected as enuring to the State of Michigan, under the provisions of the act of Congress approved September 28, 1850, in the district of lands subject to sale, at Traverse City.

*In testimony whereof*, I have hereunto subscribed my name, and caused the seal of the General Land Office to be affixed, at [SEAL.] the city of Washington, the 16 day of Nov., 1875.

S. S. BURDETT,

*Commissioner*.

\* "Received at Lansing, Nov. 27, 1875."

"Compared, and all is in patent."

255 After like offer, objection, ruling, and exception, defendant's counsel read from the records of State land office,

#### EXHIBIT 135.

#### No. 35.

#### THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, Greeting :

*Whereas*, by the act of Congress approved September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," it is provided that all the "swamp and overflowed lands" made unfit thereby for cultivation, within the State of Michigan, which remained unsold at the passage of said act, shall be granted to said State.

*And whereas*, in pursuance of instructions from the General Land Office of the United States, the several tracts or parcels of land hereinafter described have been selected as "swamp and overflowed lands" inuring to the said State under the act aforesaid, situate in the district of lands subject to sale at Traverse City, Michigan, to wit :

Town 35 north, range 3 west.

The lots numbered one, two and three, the southwest quarter of the northwest quarter, and the west half of the southwest quarter of *section 6* ; the whole of fractional *section twenty-two* ; the east half of the northeast quarter, and the southeast quarter of *section twenty-five* ; the northeast quarter of the northeast quarter, the southeast quarter of the northwest quarter, and the northwest quarter of the southwest quarter of *section twenty-eight* ; the northeast quarter of the southeast

\* In pencil in original.

quarter, and the southeast quarter of the southwest quarter of *section twenty-nine*; the southwest quarter of the southwest quarter of *section 30*; the northwest quarter of the northwest quarter, the east half of the northwest quarter, the southwest quarter of the northeast quarter, and the northeast quarter of the southeast quarter of *section thirty-one*; the south half of *section thirty-two*; the southwest quarter of the southwest quarter of *section thirty-three*, and the northeast quarter of the northeast, the west half of the northeast quarter, the southeast quarter of the northwest quarter, the southwest quarter of the southwest quarter, the east half of the southwest quarter, and the northwest quarter of the southeast quarter of *section thirty-six*, containing in all *one thousand five hundred and sixty-seven acres and seventy-three hundredths of an acre*.

Township 36 N, R 3 west.

The east half of the northwest quarter, and the east fractional half of *section one*; the lots numbered one and two, and the southwest quarter of the northwest quarter of *section three*; the northwest quarter of the northeast quarter, the south half of the northeast quarter, the east half of the northwest quarter, the north half of the southwest quarter, the northwest quarter of the southeast quarter, and the lots numbered one, two, three, four and five of *section four*; the lots numbered one and two, and the west half of the northeast quarter of *section eight*; the whole of fractional *section nine*; the east half of the southeast quarter, and the southwest quarter of the southeast quarter of *section eleven*; the northeast quarter of the northeast quarter, the west half of the northeast quarter, the south half of the northwest quarter, and the northwest quarter of the southwest quarter of *section twelve*; the lots numbered three, four and five of *section fourteen*; the lots numbered three and four of *section seventeen*; the west half of the northwest quarter, the southeast quarter of the northwest quarter, and the southwest fractional quarter of *section eighteen*; the west half of the northwest quarter, the northeast quarter of the northwest quarter, the northwest quarter of the northeast quarter, the southeast quarter of the northeast quarter, the southeast quarter, the southeast quarter of the southwest quarter, the west half of the southwest quarter of *section nineteen*; the northwest quarter, the lots numbered one, two and three, the north half of the southwest quarter, the southwest quarter of the southwest quarter of *section twenty*; the lots numbered three, four and five, and the northwest quarter of the northwest quarter of *section twenty-nine*; the whole of fractional *section thirty*; the lots numbered one, two, four, five and six, and the northwest quarter of the northwest quarter of *section thirty-one*, and the whole of fractional *section thirty-two*, containing in all *three thousand five hundred and eighty-six acres and eighty-one hundredths of an acre*, according to the official plats of survey of the said lands returned to the General Land Office by surveyor general, and for which the governor of the said State of Michigan has requested a patent to be issued to the said State as required in the aforesaid act.

*Now, therefore, know ye, that the United States of America, in consideration of the premises, and in conformity with the act of Congress aforesaid, have given and granted, and by these presents do give and grant, unto the said State of Michigan, in fee-simple, subject to the disposal of the legislature thereof, the tracts of land above described.*

To have and to hold the same, together with all the rights, privileges, immunities and appurtenances thereto belonging, unto the said State of Michigan, in fee-simple, and to its assigns forever.

*In testimony whereof, I, Ulysses S. Grant, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.*

Given under my hand, at the city of Washington, the twelfth day of August, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundred and first.

By the President:

U. S. GRANT,

By D. D. CONE, *Secretary.*

S. W. CLARK,

*Recorder of the General Land Office.*

(Recorded in vol. 2, pages 442-443 inclusive.)

258 After like offer, objection, ruling, and exception, defendant's counsel read

# EXHIBIT 136.

STATE OF MICHIGAN, STATE LAND OFFICE,  
LANSING, *Ap'l 30th, 1874.*

Hon. Willis Drummond, Com'r General Land Office, Washington,  
D. C.

SIR: I have the honor to transmit for your examination the annexed list of lands, all of which are contained in supplemental list No. 3, of swamp or overflowed land, situate in the Grand River land district, Michigan meridian, in townships resurveyed. Said entitled list was intended to supersede or be in place of lists made prior thereto of the townships contained therein. The several descriptions submitted for examination have not been approved or patented to the State. We therefore respectfully ask that an approval of each parcel, so far as possible, be made with a view of patenting, and that in cases where portions thereof have been conveyed by the U. S. to other parties, that cancellations be made, or that the State be permitted to receive indemnity therefor.

Very respectfully, your obedient serv't,

L. A. CLAPP,

*Com'r State Land Office.*

List inclosed in the letter was as follows :

(Original.)

*Supplemental List No. 3.*

List of swamp or overflowed lands prepared under the act of Congress, approved Sept. 28, 1850, and in accordance with the instructions from the Commissioner of the General Land office, situate in *Grand River land district*, in the State of Michigan, in 259 townships *resurveyed* and platted to May 1, 1858, this list being intended to supersede or be in place of lists of swamp lands heretofore made of townships contained in it.

The parcels described within comprise only a portion of the above-entitled list, and are such as have not been approved or patented to the State.

Subdivision.	Section.	Town.	Range.	Area. Acres. 100ths.	Remarks.
N E of N W	1	18 N	3 W	40	App'd to the State for R. R. purposes Dec. 10, '59.
N E " N W	1	"	"	39.62	Vacant.
N E " N W	6	"	"	39.95	"
E ½ " N W	14	"	"	80	App'd to canal Jan'y 24, '55.
N E " N W	19	"	"	40	"
N W " N W	28	"	"	40	"
N W " N E	29	"	"	40	Not selected.
N ½ " N W	29	"	"	80	App'd to State June 18, '59, R. R.
N W " N W	29	"	"	40	"
N W " N W	34	"	"	40	Vacant.
N W " N W	19	19 N	3 W	51.29	Certified to R. R.
N W " N W	19	"	"	50.70	"
N ½ " N W	29	"	"	80	"
N E " N W	32	"	"	40	Vacant.
N W " N W	33	"	"	40	Not vacant.
E ½ " N W	25	20 "	3 "	80	Vacant.
N W " N W	25	"	"	40	"
N ½ " N E	25	"	"	160	N ½ & S E of S W R. R. S W of S W.
N ½ " N E	25	"	"	80	Vacant. [See Feb. 9, '70]
N ½ " N W	33	"	"	80	"
N W " N W	35	"	"	40	"
N E " N W	1	18 "	4 "	38.42	Not selected.
N ½ " N W	1	"	"	80	"
N ½ " N W	1	"	"	80	"
N E " N W	1	"	"	40	"
N W " N E	2	"	"	40	"
N E " N W	2	"	"	37.11	"
N E " N W	11	"	"	40	"
N E " N W	12	"	"	40	"
N ½ " N W	12	"	"	80	"
N W ½ of	12	"	"	160	"
260 N W ½ " N W	28	18 N	4 W	80	Not selected.
N W ½ " N E	28	"	"	80	"
N ½ of N E	29	"	"	80	"
N E " N W	1	20 "	4 "	40	"
N W " N W	4	20 "	4 "	40	"
N W " N W	5	"	"	34.25	"

Small type under "Remarks" in pencil in original.

Subdivision.		Section.	Town.	Range.	Area.		Remarks.
					Acres.	100ths.	
W 1/2	N E	9	20 N	4 W	80		Not selected.
N E 1/2	N E	"	"	"	40		"
N E 1/2	N W	"	"	"	40		"
N 1/2	N W	"	"	"	80		"
N E 1/2	N W	"	"	"	40		"
N 1/2	N E	"	"	"	80		"
N W 1/2	N E	"	"	"	40		"
N 1/2	N W	15	"	"	80		"
N W 1/2	"	"	"	"	160		"
N E 1/2	"	"	"	"	160		"
N 1/2	N W	25	"	"	80		"
N 1/2	N E	"	"	"	80		"
N W 1/2	N E	28	"	"	80		"
N W 1/2	N E	"	"	"	40		"
N E 1/2	N W	2	18	5	39.25		"
N 1/2	N W	31	"	"	78.45		"
N W 1/2	N E	5	19	"	40		"
N E 1/2	N E	"	"	"	40		"
N E 1/2	N W	20	"	"	40		"
N W 1/2	N E	"	"	"	80		"
N E 1/2	N E	"	"	"	40		"
N W 1/2	N W	21	"	"	40		"
N E 1/2	N W	"	"	"	40		"
N W 1/2	N E	"	"	"	40		"
N W 1/2	N W	27	"	"	40		"
N 1/2	N W	"	"	"	80		"
N W 1/2	N W	35	"	"	40		"
N 1/2	N E	21	20	"	80		"
N 1/2	N W	22	"	"	40		"
N 1/2	N E	27	"	"	80		"
N 1/2	N W	27	"	"	80		"
N W 1/2	N E	28	"	"	40		"
N E 1/2	N W	28	"	"	40		"
N W 1/2	N E	34	"	"	40		"
N 1/2	of N W	"	"	"	80		"
261 N 1/2	of N W	34	20 N	5 W	80		Not selected.
N 1/2	N E	"	"	"	80		"
N W 1/2	of N W	5	19	6	40		"
N E 1/2	N E	20	"	"	80		"
N E 1/2	N W	"	"	"	40		"
N E 1/2	N W	"	"	"	69.96		"
Lot No. 1	"	"	"	"	39.77		"
N W 1/2	of N E	"	"	"	40		"
N E 1/2	N E	22	"	"	40		"
N E 1/2	N W	27	"	"	40		"
N E 1/2	N E	28	"	"	40		"
N E 1/2	"	32	"	"	160		"
N 1/2	N E	"	"	"	80.96		"
N E 1/2	N E	"	"	"	40.04		"
N W 1/2	N E	33	"	"	40		"
N 1/2	N W	"	"	"	80		"
N E 1/2	N E	3	20	6	40		"
N E 1/2	N E	"	"	"	40		"
N 1/2	N E	"	"	"	80		"
Lot No. 5	"	4	"	"	40		"
Lot " 7	"	5	"	"	40		"
Lot " 8	"	5	"	"	40		"
Lot " 3	"	5	"	"	39.87		"

Small type under "Remarks" in pencil in original.

			Area.		Remarks.
Subdivision.	Section.	Town.	Range.	Acres, 100hs.	
$\frac{1}{2}$ E $\frac{1}{2}$ of N E	5	20 N	6 W	40	Not selected.
$\frac{1}{2}$ W $\frac{1}{2}$ of N E	8	"	"	40	"
N E $\frac{1}{2}$ of N W	"	"	"	40	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N W	"	"	"	80	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N E	9	"	"	80	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N E	"	"	"	160	"
N W $\frac{1}{2}$ of N E	"	"	"	40	"
N W $\frac{1}{2}$ of N E	10	"	"	40	"
N W $\frac{1}{2}$ of N W	"	"	"	40	"
N E $\frac{1}{2}$ of N E	17	"	"	40	"
E $\frac{1}{2}$ of N E	20	"	"	80	"
W $\frac{1}{2}$ of N E	21	"	"	80	"
E $\frac{1}{2}$ of N E	32	"	"	80	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N W	4	19 "	7 "	40	"
N E $\frac{1}{2}$ of N W	7	"	"	40	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N W	"	"	"	32.54	"
N E $\frac{1}{2}$ of N W	9	"	"	40	"
262 E $\frac{1}{2}$ of N E	29	19 N	7 W	80	Not selected.
N W $\frac{1}{2}$ of N E	29	"	"	40	"
E $\frac{1}{2}$ of N E	"	"	"	80	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N W	34	"	"	40	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N E	15	20 "	7 "	40	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N W	"	"	"	80	"
E $\frac{1}{2}$ of N E	26	"	"	80	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N E	28	"	"	40	"
E $\frac{1}{2}$ of N W	31	"	"	80	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N W	"	"	"	32.70	"
N E $\frac{1}{2}$ of N W	"	"	"	40	"
N W $\frac{1}{2}$ of N W	"	"	"	33.50	"
N E $\frac{1}{2}$ of N E	33	"	"	40	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N E	"	"	"	40	"
N W $\frac{1}{2}$ of N W	"	"	"	40	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N W	11	15 "	12 "	40	"
W $\frac{1}{2}$ of N E	14	"	"	80	"
N W $\frac{1}{2}$ of N W	20	"	"	40	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N W	7	15 "	13 "	37.51	"
N W $\frac{1}{2}$ of N W	"	"	"	37.04	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N W	"	"	"	40	"
E $\frac{1}{2}$ of N W	32	"	"	80	"
N W $\frac{1}{2}$ of N W	"	"	"	40	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N W	"	"	"	40	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N W	8	16 "	"	40	"
N W $\frac{1}{2}$ of N W	"	"	"	40	"
Lot No. 6	11	"	"	47.16	"
E $\frac{1}{2}$ of N E	14	"	"	80	"
N E $\frac{1}{2}$ of N E	18	"	"	160	"
E $\frac{1}{2}$ of N W	"	"	"	80	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N W	"	"	"	132.80	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N E	"	"	"	90	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N E	22	"	"	40	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N E	"	"	"	40	"
$\frac{1}{2}$ W $\frac{1}{2}$ of N W	26	"	"	40	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N E	27	"	"	40	"
E $\frac{1}{2}$ of N E	27	"	"	80	"
E $\frac{1}{2}$ of N W	6	14 "	14 "	80	"
$\frac{1}{2}$ E $\frac{1}{2}$ of N E	10	"	"	40	"
W $\frac{1}{2}$ of N E	11	"	"	80	"

Small type under "Remarks" in pencil in original.

Subdivision.	Section.	Township.	Range.	Area. Acres. 100ths.	Remarks.
263 W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	11	14 N	14 W	80	Not selected.
N E $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	14	"	"	40	"
S E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	2	15 "	"	40	"
N E $\frac{1}{4}$ " N E $\frac{1}{4}$ .....	6	"	"	39.37	"
Lot No. 1.....	7	"	"	55.84	"
Lot " 4.....	7	"	"	34.10	Lot 4, plat 1839. Pat.
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	11	"	"	80	"
S E $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	26	"	"	40	"
N W $\frac{1}{4}$ " S E $\frac{1}{4}$ .....	"	"	"	40	"
S $\frac{1}{2}$ " S W $\frac{1}{4}$ .....	34	"	"	80	"
Lot No. 2.....	"	"	"	27.92	"
N E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	35	"	"	40	"
N E $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	25	16 "	"	40	"
E $\frac{1}{2}$ " N W $\frac{1}{4}$ .....	27	"	"	80	"
E $\frac{1}{2}$ " S W $\frac{1}{4}$ .....	"	"	"	80	"
S W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	27	16 N	14 W	40	"
S E $\frac{1}{4}$ ".....	27	"	"	160	"
S W $\frac{1}{4}$ " N E $\frac{1}{4}$ .....	36	"	"	40	"
N E $\frac{1}{4}$ " S E $\frac{1}{4}$ .....	"	"	"	40	"

Small type under "Remarks" in pencil in original.

After like offer, objection, ruling and exception, defendant's counsel read

### EXHIBIT 137.

K. DEPARTMENT OF THE INTERIOR, R. D.  
GENERAL LAND OFFICE, E. K.  
WASHINGTON, D. C., June 15, 1874.

L. A. Clapp, Esqr., comm'r State land office, Mich., Lansing, Mich.

SIR: Your letters of the 30th April last, transmitting supplemental lists of swamp lands, embracing resurveyed townships, for the Cheboygan and Grand River districts, and requesting that the lands therein described be approved to the State of Michigan, with a view to patenting the same; also that in case any of the tracts embraced in said lists have been conveyed by the United States to other parties, that said conveyance be canceled, or that the State receive indemnity for the same, are received.

In reply I have to state that, prior to the reception of the selections made under the new surveys in the following townships, viz:

Townships 34, 35, 36, 37 & 38 N, R 1 E.  
" 28, 29, 34, 35, 36, 37 & 38 2 "  
" 34, 35 & 36 N, R 3 E.  
" 31, 32, 33, 34, 35 & 36 " 4 "  
" 31, 32, 33, 34 & 35 " 5 "  
" 31, 33 & 34 " 6 "  
" 31, 33 & 34 " 7 "  
" 34 " 8 "  
" 31 & 32 " 9 "

Townships 29, 35, 36 & 37 & 38 N, R 1 W.

"	29, 30, 35 & 36 & 37	"	2	"
"	18 & 20	"	4	"
"	18, 19 & 20	"	5	"
"	19 & 20	"	6	"
"	19 & 20	"	7	"
"	15	"	12	"
"	15 & 16	"	13	"
"	14, 15 & 16	"	14	"

the greater

part of the selections made under the old or defective surveys had been approved to the State.

In such cases this office has always refused to admit new selections in the same townships where the first or old selections had been certified to the State.

Our records show the following disposition of the tracts enumerated below, viz:

Parts of sections.	Sec.	Tp.	Range.	Remarks.
Lot No. 4.....	28	38 N	1 W	Indemnity awarded case No. 90.
" " 1.....	29	"	"	" " " " 91.
E $\frac{1}{2}$ of N W $\frac{1}{2}$ .....	32	"	"	" " " " 92.
N W $\frac{1}{2}$ .....	33	"	"	Loc. wt. 2,200 June 17, 1851.
N $\frac{1}{2}$ of N E $\frac{1}{2}$ .....	33	"	"	" prior to swamp grant.
265 S E $\frac{1}{2}$ of N E $\frac{1}{2}$ .....	33	38 N	1 W	Loc. wt. 73,057 June 17, 1851.
Lots 1 & 2.....	34	"	"	Indemnity awarded case No. 93.
E $\frac{1}{2}$ of N W $\frac{1}{2}$ .....	1	18	3	Approved to the State for railroad purposes Dec. 10/59.
E $\frac{1}{2}$ " N W $\frac{1}{2}$ .....	14	"	"	Approved to the State for canal Jan'y 24/55.
S E $\frac{1}{2}$ " S E $\frac{1}{2}$ .....	19	"	"	Approved to the State for canal Jan'y 24/55.
S W $\frac{1}{2}$ " S W $\frac{1}{2}$ .....	28	"	"	Approved to the State for canal Jan'y 24/55.
N $\frac{1}{2}$ of S W $\frac{1}{2}$ .....	29	"	"	Approved to the State for railroad purposes June 18/59.
S W $\frac{1}{2}$ of S W $\frac{1}{2}$ .....	29	"	"	Approved to the State for canal Jan'y 24/55.
W $\frac{1}{2}$ " S W $\frac{1}{2}$ .....	19	19	"	Approved to the State for railroad purposes June 18/59.
S $\frac{1}{2}$ " S W $\frac{1}{2}$ .....	29	"	"	Approved to the State for railroad purposes June 18/59.
N $\frac{1}{2}$ " S W $\frac{1}{2}$ .....	25	20	"	Approved to the State for railroad purposes June 18/59.
S E $\frac{1}{2}$ " S W $\frac{1}{2}$ .....	25	"	"	Approved to the State for railroad purposes June 18/59.
S W $\frac{1}{2}$ " S W $\frac{1}{2}$ .....	25	"	"	Selected by J. L. & Sag. R. road Feb'y 3, 1870.
				Approved Apr'l 15/76, to the State. List No. 24.
N W $\frac{1}{2}$ " N E $\frac{1}{2}$ .....	1	29	"	Certified to A. L. T. B. railroad Ap'l 17, 1861.
S W $\frac{1}{2}$ " N E $\frac{1}{2}$ .....	1	"	"	App'd to the State for railroad purposes Ap'l 17, 1861.
N W $\frac{1}{2}$ .....	1	"	"	Patented to J. L. & Sag. railroad May 8, 1873.
S E $\frac{1}{2}$ of S W $\frac{1}{2}$ .....	36	21	7	Loc. wt. 54,082, May 16, 1854.
S W $\frac{1}{2}$ of S E $\frac{1}{2}$ .....	36	"	"	Indemnity awarded case No. 36.
S E $\frac{1}{2}$ " S W $\frac{1}{2}$ .....	14	25	"	" " " " 37.
S E $\frac{1}{2}$ " S E $\frac{1}{2}$ .....	22	"	"	" " " " 38.

Small type under "Remarks" in pencil in original.



Parts of sections.	Sec.	Tp.	Range.	Remarks.
S W   " S E	22	25	7 W	Indemnity awarded case No. 39.
N W   " N W	23	"	"	" " " 40.
N E   " N E	27	"	"	" " " 42.
S E   " N E	27	"	"	Selected by G. R. & I. railroad July 14, 1870.
26 W ½ of N E ½	27	25 N	7 W	Selected by G. R. & I. railroad July 14, 1870.
				Approved to the State April 13   76. List No. 24. Traverse City.
N W   of S W	27	"	"	Selected by G. R. & I. railroad July 14, 1870.
S E   " S W	27	"	"	Selected by G. R. & I. railroad July 14, 1870.
N E   of S W	27	25	"	Indemnity awarded case No. 43.
S W   " S W	27	"	"	" " " No. 44.
S W   " S W	1	31	"	Certified to G. R. & I. R. road June 10/64.
lots 2, 5 & 6.	21	"	"	" " " "
N W   of S E	21	"	"	" " " "
N E   " N W	27	"	"	" " " "
N ½ " S W	5	32	"	" " " "
S W   " S E	5	"	"	" " " "
N W   " N W	19	"	"	" " " "
N E   " N W	3	23	9	Selected by G. R. & I. railroad July 14, 1870.
E   " N E	9	24	"	Approved to State April 13   76. List No. 24. App'd to the State for canal, Jan'y 24, 1855.
E   " S W	12	24 N	9 W	Indemnity awarded case No. 52.
E   " S E	13	"	"	Certified to G. R. & I. railroad June 10, 1864.
E   " N E	14	"	"	Indemnity awarded case No. 53.
lots 5, 6 & 7	11	29	"	Indian reservation.
" 1, 2, 3 & 4.	14	"	"	" " "
E ½ of S E	20	"	"	Sold Oct. 29, 1853, etc. No. 9689.
½ " S W	2	30	"	Indemnity awarded case No. 54.
E   " N W	11	"	"	" " " 55.
E   " S W	11	"	"	Selected by G. R. & I. railroad July 14, 1870.
lot No. 1.	8	32	10	Sold prior to swamp grant.
lots 2 & 3.	8	"	"	Indemnity list No. 1.
W ½ of N E	22	"	11	" " " "
E   " S W	22	"	"	" " " "
Y ½ " S E	22	"	"	" " " "
E   " S W	22	"	"	Sold prior to swamp grant.
E   " S E	22	"	"	" " " "
E   " S E	27	"	"	" " " "
E   " N E	34	"	"	" " " "
W ½ " S W	34	"	"	" " " "

Small type under "Remarks" in pencil in original.

267 The following tracts are noted on our records as vacant. They will be embraced in a list at an early day, and submitted to the Hon. Secretary of the Interior for its approval:

Parts of section.	Sec.	Tp.	Range.	Remarks.
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	6	18 N	3 W	Vacant
S W $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	34	"	"	"
W $\frac{1}{4}$ " S E $\frac{1}{4}$ .....	36	28	"	"
N E $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	32	19	"	"
S W $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	33	"	"	"
S W $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	25	20	"	"
E $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	25	20	"	" S E, N W, pat'd.
N $\frac{1}{4}$ " S E $\frac{1}{4}$ .....	25	"	"	"
S $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	33	"	"	" Applied for approval Aug. 12, 1875.
S W $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	35	"	"	" See letter book.
Whole of .....	2	23	5	" Clapp.
N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	36	21	7	"
E $\frac{1}{4}$ " S E $\frac{1}{4}$ .....	30	24	8	"
W $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	1	"	9	"
N E $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	12	"	"	"
S E $\frac{1}{4}$ " N E $\frac{1}{4}$ .....	14	"	"	"
N W $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	8	32	10	"
S W $\frac{1}{4}$ " S E $\frac{1}{4}$ .....	28	18	3	Not selected
S W $\frac{1}{4}$ " N E $\frac{1}{4}$ .....	29	"	"	"
N $\frac{1}{2}$ " S E $\frac{1}{4}$ .....	1	29	"	"

These three tracts do not appear on our records as swamp-land selections.

Small type under "Remarks" in pencil in original.

Very respectfully, your obt's v't,

S. S. BURDETT,  
*Commissioner.*

After like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 138.

STATE LAND OFFICE, LANSING, August 12th, 1875.

Hon. S. S. Burdett, Com'r Gen. Land Office, Washington, D. C.:

Referring to your letter under date of June 15, 1874 (initial K.), it appears that the lands embraced in the annexed list were  
268 noted on your records as vacant, and would be embraced in a list at an early day and submitted to the Hon. Secretary of the Interior for his approval to the State of Mich., as swamp or overflowed land enuring to the State under act approved May 28, 1850.

We respectfully request that the lands be embraced in a list and submitted for approval without further delay, if consistent with your views.

Very resp'y yours,

L. A. CLAPP,  
*Commissioner.*

List enclosed is as follows:

Subdivision.	Section.	Town.	Range.	Area. Acres. 100ths.	Remarks.
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	6	18 N	3 W	.....	Vacant.
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	34	"	"	.....	"
W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	36	28 N	"	.....	"
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	32	19 "	"	.....	"
S W $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	33	"	"	.....	"
S W $\frac{1}{4}$ " N W $\frac{1}{4}$ .....	25	20	"	.....	"
E $\frac{1}{2}$ " N W $\frac{1}{4}$ .....	25	"	"	.....	"
N $\frac{1}{2}$ " S E $\frac{1}{4}$ .....	25	"	"	.....	"
S $\frac{1}{2}$ " N W $\frac{1}{4}$ .....	33	"	"	.....	"
S W $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	35	"	"	.....	"
Whole " .....	2	23	5 N	.....	"
N E $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	36	21	7 "	.....	"
E $\frac{1}{2}$ " S E $\frac{1}{4}$ .....	30	24	8 "	.....	"
W $\frac{1}{2}$ " N W $\frac{1}{4}$ .....	1	24	9 "	.....	"
N E $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	12	24	"	.....	"
S E $\frac{1}{4}$ " N E $\frac{1}{4}$ .....	14	"	"	.....	"
N W $\frac{1}{4}$ " S W $\frac{1}{4}$ .....	8	32	10 "	.....	"

269 After like offer, objection, ruling and exception, defendant's counsel read

K.

EXHIBIT 139.

H. A. W.

DEPARTMENT OF THE INTERIOR, E. K.  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., Sept. 13, 1875.

L. A. Clapp, Esq., commissioner of State lands, Lansing, Mich.

SIR: I am in receipt of your letter of the 12th ult. requesting that certain swamp lands in the State of Michigan, be approved and patented to the State.

In reply I have to inform you that the following tracts, to wit:

N E  $\frac{1}{4}$  of N W  $\frac{1}{4}$  sec. 6 T 18 N R 3  
S W  $\frac{1}{4}$  of S W  $\frac{1}{4}$  " 34 " " "  
N E  $\frac{1}{4}$  of N W  $\frac{1}{4}$  " 32 " 19 " 3  
S W  $\frac{1}{4}$  of S W  $\frac{1}{4}$  " 33 " " " 3  
E  $\frac{1}{2}$  of N W  $\frac{1}{4}$  " 25 " 20 " 3  
N S E  
~~N~~  $\frac{1}{2}$  of ~~N~~ ~~N~~  $\frac{1}{4}$  " 25 " 20 "  
S  $\frac{1}{2}$  of N W  $\frac{1}{4}$  " 33 " " "  
S W  $\frac{1}{4}$  of S W  $\frac{1}{4}$  " 35 " " "

were embraced in list No. 20, of swamp and overflowed lands for the Ionia district, Mich., and the following tracts, to wit:

W  $\frac{1}{2}$  of S E  $\frac{1}{4}$  sec. 36 T 28 N R 3 W  
The whole " 2 " 23 " 5  
N E  $\frac{1}{4}$  of S W  $\frac{1}{4}$  " 36 " 21 " 7  
E  $\frac{1}{2}$  of S E  $\frac{1}{4}$  " 30 " 24 " 8  
W  $\frac{1}{2}$  of N W  $\frac{1}{4}$  " 1 " 24 " 9  
N E  $\frac{1}{4}$  of S W  $\frac{1}{4}$  " 12 " " " "  
N W  $\frac{1}{4}$  of S W  $\frac{1}{4}$  " 8 " 32 " 10

were embraced in list No. 21, of swamp and overflowed land for the Ionia, now Traverse City, district, Mich., which lists were on the 10th inst. submitted to the Secretary of the Interior for his approval, preliminary to patenting the lands embraced therein to the State of Michigan under the swamp grant.

Very respectfully, your ob't s'v't,

W. W. CURTIS,  
*Acting Commissioner.*

After like offer, objection, ruling, and exception, defendant's counsel read from a copy duly certified by the State land office of Michigan,

EXHIBIT 140.

No. 20.

*Approved List No. 20, Ionia.*

A list of swamp and overflowed lands selected as enuring to the State of Michigan under the provisions of the act of Congress approved September 28, 1850, in the district of lands subject to sale at Ionia, Michigan, viz:

	Sec.	Town.	Range.	Acres.	
		N.	W.		
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	6	18	3	39.95	
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	34	"	"	40.00	79.95

GENERAL LAND OFFICE,  
SWAMP-LAND DIVISION, *September 10th, 1875.*

This certifies that the foregoing tracts of land were duly reported to this office as swamp land, and that they have been carefully compared with the field-notes and plats of public surveys, and found therefrom to be swamp and overflowed lands.

G. HOSMER, *Clerk.*

E. KILLPATRICK,  
*Head of Swamp Division.*

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, *Sept. 10th, 1875.*

Respectfully submitted for approval.

W. W. CURTIS,  
*Acting Commissioner.*

271 DEPARTMENT OF THE INTERIOR, 13 *Sept., 1875.*

The foregoing list of swamp selections is hereby approved, subject to any valid legal rights that may exist to any of the tracts therein described.

B. R. COWEN,  
*Acting Secretary.*

I, S. S. Burdett, Commissioner of the General Land Office, certify that the foregoing is a true copy of approved list No. 20, of swamp

and overflowed lands, selected as enuring to the State of Michigan, under the provisions of the act of Congress approved September 28, 1850, in the district of lands subject to sale at Ionia, Michigan.

*In testimony whereof*, I have hereunto subscribed my [SEAL.] name, and caused the seal of the General Land Office to be affixed, at the city of Washington, the 18th day of September, 1875.

S. S. BURDETT,  
*Commissioner.*

After like offer, objection, ruling, and exception, defendant's counsel read from a duly certified copy from the State land office of Michigan,

### EXHIBIT 141.

### No. 34.

### THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, Greeting :

*Whereas*, by the act of Congress approved September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," it is provided that all the "swamp and overflowed lands" made unfit thereby for cultivation, within the State of Michigan, which remained unsold at the passage of said act, shall be granted to said State.

*And whereas*, in pursuance of instructions from the General Land Office of the United States, the several tracts or parcels 272 of land hereinafter described have been selected as "swamp and overflowed lands" inuring to the said State under the act aforesaid, situate in the district of lands subject to sale at Ionia, Michigan, to wit :

### Township 18 N, R 3 west.

The northeast quarter of the northwest quarter of section six ; and the southwest quarter of the southwest quarter of section 34, containing in all seventy-nine acres and ninety-five hundredths of an acre, according to the official plats of survey of said lands returned to the General Land Office by the surveyor general.

And for which the governor of the said State of Michigan has requested a patent to be issued to the said State, as required in the aforesaid act.

*Now, therefore, know ye*, that the United States of America, in consideration of the premises, and in conformity with the act of Congress aforesaid, have given and granted, and by these presents do give and grant, unto the said State of Michigan, in fee-simple, subject to the disposal of the legislature thereof, the tracts of land above described. To have and to hold the same, together with all the rights, privileges, immunities and appurtenances thereto belonging unto the said State of Michigan, in fee-simple, and to its assigns forever.

*In testimony whereof*, I, Ulysses S. Grant, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.  
 [SEAL.] Given under my hand, at the city of Washington, the thirty-first day of July, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundred and first.

By the President:

U. S. GRANT,  
 By D. D. CONE, *Secretary*.  
 S. W. CLARK,

*Recorder of the General Land Office.*

(Recorded in vol. 2, page 440.)

273 After like offer, objection, ruling and exception, defendant's counsel read the following certificate as

#### EXHIBIT 142.

STATE OF MICHIGAN, STATE LAND OFFICE,

LANSING, *June 16, 1892.*

I, George T. Shaffer, commissioner of the State land office, do hereby certify that the following lands, viz: The southeast quarter of southwest quarter, southwest quarter of southeast quarter, and east half of southeast quarter of section seven (7), town twenty-three (23) north, range one (1) west; southeast quarter of southeast quarter of section twenty-eight (28), town twenty-four (24) north, range one (1) west; southwest quarter of southwest quarter of section two (2), town twenty-seven (27) north, range four (4) west; north half of southwest quarter of section twenty-nine (29), town eighteen (18) north, range three (3) west; east half of southwest quarter of section one (1), town eighteen (18) north, range four (4) west, all in Michigan, are not included in any approved list made by the Secretary of the Interior to the State of Michigan, now on file in this office, and I further certify that the said lands are not included in any patent from the United States to the State of Michigan, as received and now on file and of record in this office.

I further certify that no swamp lands in township eighteen (18) north, range three (3) west, under act of Congress approved September 28, 1850, are included in any approved lists on file in this office, except approved list No. 1, Ionia, approved list No. 10, Ionia, and approved list No. 20, Ionia, nor in any patent except patents Nos. 20 and 34, Ionia district. That no swamp lands in township eighteen (18) north, range four (4) west, under act of Congress approved September 28, 1850, are included in approved lists on file in this office, except approved list No. 1, Ionia, nor in any patent except patent No. 2, Ionia.

That no swamp lands in township twenty-seven (27) north, range four (4) west, under act of Congress approved September 28, 1850, are included in any approved lists on file in this office, except ap-

proved list No. 4, Ionia, nor in any patents except patent No. 16, Grand Traverse. That no swamp lands in townships twenty-three (23) and twenty-four (24) north, range one (1) west, under the act of Congress approved September 28, 1850, are included in any approved lists on file in this office except approved list No. 1, Genesee, nor in any patent except patent No. 2, Genesee district.

*In testimony whereof*, I have hereunto subscribed my name, and have caused the seal of this office to be affixed.  
[SEAL.] Done at the city of Lansing on the day and year above written.

GEO. T. SHAFFER,  
*Commissioner of the State Land Office.*

After like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 143.

UNITED STATES LAND OFFICE,  
DETROIT, *Sept. 10th, 1877.*

Hon. B. F. Partridge, commissioner of State land office.

DEAR SIR: Enclosed we transmit a copy of a letter received this morning from the Commissioner of the General Land Office, Washington, D. C., which will explain itself. You will take notice that you have sixty days from receipt of this notice to appeal from the decision of the department, herein transmitted to you. At the termination of the sixty days we shall report the case to Washington, as directed.

Very respectfully,

J. B. BLOSS, *Register.*

JOHN M. FARLAND, *Receiver.*

275 Enclosed was the following:

Refer in reply to this initial.

K. DEPARTMENT OF THE INTERIOR, H. W. B.  
GENERAL LAND OFFICE, E. K.  
WASHINGTON, D. C., *September 6, 1877.*

Register & receiver, Detroit, Michigan.

GENTLEMEN: The tracts below described, included in homestead entries in your district, and found to be in conflict with an apparent claim of the State of Michigan, under the swamp grant, to wit:

S E $\frac{1}{4}$ S W $\frac{1}{4}$ sec. 6, and N W fr'l $\frac{1}{4}$	7-35 N 4 E	Hd.	1756
E $\frac{1}{2}$ S W $\frac{1}{4}$	" "	"	1368
N W $\frac{1}{4}$ N E $\frac{1}{4}$ , and N E $\frac{1}{4}$ N W $\frac{1}{4}$	29 "	"	1754
S $\frac{1}{2}$ N E $\frac{1}{4}$ , and N E $\frac{1}{4}$ S E $\frac{1}{4}$	19 34 N 5 E	Hd.	1761
S $\frac{1}{2}$ N W $\frac{1}{4}$	19 "	"	1284
W $\frac{1}{2}$ S W $\frac{1}{4}$ , and S E $\frac{1}{4}$ S W $\frac{1}{4}$	19 "	"	1273
N E $\frac{1}{4}$ S W $\frac{1}{4}$ , and N W $\frac{1}{4}$ S E $\frac{1}{4}$	19 "	"	1285
N W $\frac{1}{4}$ of S E $\frac{1}{4}$	22 "	"	1738
S E $\frac{1}{4}$ N W $\frac{1}{4}$	33 "	"	1287

These lands are embraced in supplemental list D of swamp selections, which was made and transmitted to the office after the townships in which they are situated were resurveyed, and in reference to which a letter dated June 18, 1864, was transmitted to your office, and which contains the following: "After the resurveys were made, new selections of swamp lands were also made and transmitted to this office; but before these new selections were received, the office had approved and patented to the State most of the selections for the same townships under the old surveys. \* \* \*

"The supplemental list D, to which you refer, was made from the resurvey, and was originally intended to abrogate or supersede the old list in the townships contained in said supplemental list

D, but inasmuch as the selections under the old surveys  
276 in that portion of the Detroit district, had been acted upon and carried into patent, that course was found to be impracticable.

"As this office cannot recognize two lists of swamp selections for the same township, made from different and conflicting surveys, and having, as stated, acted upon *one*, we must of necessity ignore the other. You will therefore consider the original list made under the *old survey*, a copy in part of which was sent you on the 15th April last, as being the only list to govern you in the townships therein contained."

In view of the foregoing action of this office the claim of the State under the swamp grant to the lands in question is held for rejection subject to appeal.

You will please notify the State authorities and all others in interest of the action of this office in the premises, and allow sixty days from the receipt of notice in which to file appeals, and at the expiration of that time report whether or not appeal has been taken, and withhold the lands from all further disposition until otherwise instructed by this office.

Very respectfully,

(Signed)

J. A. WILLIAMSON,

Commissioner.

After like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 144.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., June 26, 1880.

His excellency the governor of Michigan, Lansing, Mich.

SIR: I have the honor to acknowledge the receipt of your letter of 17th inst. inclosing list of lands in township 24 north of range 1 west, Michigan, claimed by the commissioner of the State  
277 land office as belonging to the State of Michigan under the swamp grant, reported by the surveyor general in list of lands in Saginaw district under date of December 24, 1852.



I have to state that the list referred to was superseded by a list reported from resurveys made in 1853, and certified to this office Oct. 12, 1853, as to townships 13-14-15-16-17-22-23-24-25-26 & 27 of range 1 west and townships 11-12-13-22-23-24-25-26 & 27 of range 2 west, and the lands described in the list sent by you are not included in the list made from the resurveys, consequently are not recognized as swamp selections, and the State of Michigan has no right thereto under and by virtue of said superseded list.

The land in the odd-numbered sections has all been certified to the State for railroad purposes.

Very respectfully,

J. A. WILLIAMSON,

*Commissioner.*

And after like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 145.

EXECUTIVE OFFICE,  
MICHIGAN, LANSING, July 27, 1881.

Hon. Samuel J. Kirkwood, Sec'y of the Interior, Washington, D. C.

SIR: The lands described in the enclosed list marked "A," have been approved to the State of Michigan under the act of Congress approved Sept. 28, 1850, for the disposal of swamp land; I have the honor to request that patent for the same be issued to this State.

Respectfully yours,

DAVID H. JEROME, *Governor.*

278 Enclosed was the following:

Subdivisions.	Sections.	Area.		Remarks.
		Town.	Range.	
		N.	W.	
Suspended.				
23 S W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	29	18	3	40 App'd Oct. 27, '73, cancd, vac.
" S E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	17	19	3	40 Do. do. do.
Suspended.				
27 S E $\frac{1}{4}$ .....	25	28	3	160 Do. do. do.
Su pended N E, S W, O S.				
See if in Lot 2		"	"	31.15 S 2. Do. do.
30 N E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	22	30	9	40 Pat'd to Jackson, Lansing & Saginaw R. R. Mar. 30, '71.
26 Lot 1 .....	24	36	2	51.57 Relinquished by gov. May 28, '73.
" 2 .....	"	"	"	45.62 2.74.
" 3 .....	"	"	"	25.35 27.80.
" 4 .....	"	"	"	38.31 as in sec. 31.
N $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	80 Pat'd sw'p, May 5, '54.
N W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40 See to gov. of Mich. July 2, '78.

Land patented as sec. 31 relinquished by gov. July 31, '78.

Small type in above descriptions in pencil in original.

After like offer, objection, ruling, and exception, defendant's counsel read

EXHIBIT 146.

Refer in reply to this initial

K. DEPARTMENT OF THE INTERIOR, H. W. B.  
GENERAL LAND OFFICE, S. L. C.  
WASHINGTON, D. C., Aug. 27, 1881.

His excellency the governor of Michigan, Lansing, Michigan.

SIR: Your letter of the 27th ultimo is received, inclosing a list of lands which you state have been approved to the State of Michigan as swamp, and asking that patent be issued for the same.

In reply I have to state that it appears from the records of this office that the following tracts, embraced in said list, were selected and reported as swamp lands March 29, 1852, and approved 279 as such Oct. 27, 1853, but have not been patented to the State, for the reason that the surveys under which they were selected being found to be defective, a resurvey of the townships was made, and a new list of swamp-land selections was reported thereunder, superseding the former list, in which said lands do not appear; they are, therefore, not recognized as swamp selections, and cannot be treated as such, to wit:

S W  $\frac{1}{4}$  N E  $\frac{1}{4}$  29, 18 N, 3 W; S E  $\frac{1}{4}$  S W  $\frac{1}{4}$  17, 19 N, 3 W.;

Lot No. 2, and S. E  $\frac{1}{4}$  25, 28 N, 3 W.

The N E  $\frac{1}{4}$  N E  $\frac{1}{4}$  22, 30 N, 9 W—also included in your list, was reported to this office Feb'y 20, 1857, as swamp land, and patented to the State Dec. 26, 1866. By letter of Nov. 22, 1872, the governor of Michigan was advised that said tract had been erroneously carried into patent; the same having been sold June 7, 1856; that said sale was confirmed by act of Congress approved March 3, 1857, and requested to cause a relinquishment of the apparent title of the State to the land, to be executed and forwarded to this office. This request was complied with May 28th, 1873, and the entry was patented Feb'y 15, 1875.

The remaining tracts: Lots 1, 2, 3, and 4; N  $\frac{1}{2}$  S W  $\frac{1}{4}$  and N W  $\frac{1}{4}$  S E  $\frac{1}{4}$  24, 36 N, 2 W, will be patented to the State at an early day.

Yours respectfully, your obedient servant,

N. C. McFARLAND,  
Commissioner.

280 And after like offer, objection, ruling and exception, defendant's counsel read

## EXHIBIT 147.

EXECUTIVE OFFICE, MICHIGAN,  
SAGINAW, *March 20th, 1882.*

Commissioner General Land Office, Interior Department, Washington, D. C.

SIR: I inclose herewith communication from Hon. J. M. Neasmith, commissioner of State land office, together with list of lands selected for the State, for which I respectfully ask patents to be issued.

Very respectfully yours,

DAVID H. JEROME,  
*Gov. of Michigan.*

Inclosed was the following :

STATE OF MICHIGAN, STATE LAND OFFICE,  
LANSING, *March 18, 1882.*

To the governor :

I herewith enclose a list of swamp land selected for the State under the act of September 28, 1850, granting swamp and overflowed lands to the State of Michigan, and respectfully ask that you request the Secretary of the Interior to cause patents for the same to be issued to the State.

Very resp'y yours,

J. M. NEASMITH, *Com.*

Subdivision.	Section.	Town.	Range.	Area.		Remarks.
				Acres.	100ths.	
Lot 1.....	17	47 N	1 W	32.65		Sold 1848.
N W $\frac{1}{4}$ .....	25	2 "	15 E	160.00		No such tract.
N E $\frac{1}{4}$ .....	25	9 "	2 W	160.00		" "
N W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	14	16 "	13 "	40.00		" "
E $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	9	20 "	2 "	80.00		Appd. & R. & R. April 2, '64. Patented Nov. 12, '69.
E $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	9	20 "	2 "	80.00		Jackson, Lansing & Saginaw.
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	9	20 "	4 "	40.00		Not selected.
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	19	24 "	5 "	40.00		" "
W $\frac{1}{2}$ .....	7	28 "	4 "	320.00		" "
N W $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	7	29 "	4 "	40.00		
E $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	7	29 "	4 "	80.00		
S E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	19	29 "	4 "	40.00		
E $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	19	29 "	4 "	80.00		
N E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	31	29 "	4 "	40.00		
W $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	31	35 "	4 "	80.00		Appd. as swamp, Jan. 9, '66.
E $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	31	35 "	4 "	80.00		" " " " "
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	31	35 "	4 "	80.00		" " " " "
						Addn. land.

Small type under "Remarks" in pencil in original.

And after like offer, objection, ruling and exception, defendant's counsel read

## EXHIBIT 148.

Refer in reply to this initial "K."

S. L. C.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., March 29, 1882.

His excellency the governor of Michigan, Lansing, Mich.

SIR: I am in receipt of your letter of the 20th inst., enclosing a letter from the commissioner of State lands, accompanied by a list of lands claimed as swamp, and requesting that patent issue for the same.

I have the honor to state that the following is the status of the State's claim, as shown by the records of this office:

Lot 1, sec. 17, tp. 47, R 1 W, was selected by the State and reported to this office as swamp land Feb'y 1st, 1853, but having been entered by cash July 1st, 1848, did not pass to the State under the grant of September 28th, 1850.

The E  $\frac{1}{2}$  N W  $\frac{1}{4}$ , and E  $\frac{1}{2}$  S W  $\frac{1}{4}$  of sec. 9, tp. 20, R 2 W, were selected and reported to this office as swamp lands May 12th, 1858. Described tracts were also selected for the Jackson, Lansing and Saginaw railroad, and patent issued to the State for the same Nov. 12th, 1869. These lands having been patented to the State for railroad purposes, this office will not consider the State's claim to the same lands under another grant.

The N W  $\frac{1}{4}$  sec. 25, tp. 2, R 15 E, does not appear on the plats of Government survey.

The following tracts have not been selected as swamp:

N E $\frac{1}{4}$ .....	Sec 25	Tp 9	R 2 W.
N W $\frac{1}{4}$ N E $\frac{1}{4}$ .....	" 14	" 16	" 13 "
S W $\frac{1}{4}$ S E $\frac{1}{4}$ .....	" 9	" 20	" 4 "
W $\frac{1}{2}$ N E $\frac{1}{4}$ .....	" 31	" 35	" 4 "
E $\frac{1}{2}$ S W $\frac{1}{4}$ .....	" 31	" 35	" 4 "
W $\frac{1}{2}$ S E $\frac{1}{4}$ .....	" 31	" 35	" 4 "

The following and remaining tracts described in your list were selected and reported to this office as swamp land in 1852, but subsequently the townships in which these lands are situated were resurveyed, on the ground that the original surveys were fraudulent, and new lists of swamp selections were made out which superseded the old, and which do not contain described tracts:

S W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	Sec 19	Tp 24	R 5 W.
W $\frac{1}{2}$ .....	" 7	" 28	" 4 W.
N W $\frac{1}{4}$ N W $\frac{1}{4}$ .....	" 7	" 29	" 4 "
E $\frac{1}{2}$ S W $\frac{1}{4}$ .....	" 7	" 29	" 4 "
S E $\frac{1}{4}$ N W $\frac{1}{4}$ .....	" 19	" 29	" 4 "
E $\frac{1}{2}$ S W $\frac{1}{4}$ .....	" 19	" 29	" 4 "
N E $\frac{1}{4}$ N W $\frac{1}{4}$ .....	" 31	" 29	" 4 "

In view of the foregoing, and the fact that the lands above described have been disposed of by the Government, I am unable to comply with your request.

Very respectfully, your obedient servant,

N. C. McFARLAND,

*Commissioner.*

283 And after like offer, objection, ruling and exception, defendant's counsel read

# EXHIBIT 149.

K. DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., Mar. 25, 1887.

Address only the Commissioner of the General Land Office.

Register and receiver, Detroit, Mich.

GENTLEMEN: The following homestead entries are suspended for conflict with the apparent claim of the State of Michigan, under the swamp grant of Sept. 28, 1850, to wit:

No. 2379, made Aug. 11, 1884, for E  $\frac{1}{2}$  N W  $\frac{1}{4}$  and N W  $\frac{1}{4}$  N W  $\frac{1}{4}$  sec. 18, and W fr  $\frac{1}{2}$  S W  $\frac{1}{4}$  sec. 7, T 35 N, R 4 E, by Hermann Lietzon, as to the W  $\frac{1}{2}$  S W  $\frac{1}{4}$  sec. 7.

No. 2215, made June 11, 1881, for N  $\frac{1}{2}$  S W  $\frac{1}{4}$  sec. 14, T 35 N, R 4 E, by William Meden.

No. 1626, made Feb'y 29, 1876, F. C. No. 833, issued Oct. 10, 1881, for N E  $\frac{1}{4}$  S E  $\frac{1}{4}$  sec. 17, T 35 N, R 4 E, to Johan Globke.

No. 2401, made Feb'y 2d, 1885, for N E  $\frac{1}{4}$  sec. 23, T 35 N, R 4 E, by Frank Ostroski, as to the N E  $\frac{1}{4}$  N E  $\frac{1}{4}$ .

No. 1683, made Sept. 23, 1876, for S  $\frac{1}{2}$  S E  $\frac{1}{4}$  sec. 19, and N  $\frac{1}{2}$  N E  $\frac{1}{4}$  sec. 30, T 34 N, R 5 E, F. C. No. 937, issued October 31, 1883, to John Schalk.

No. 1654, made July 6, 1876, for E  $\frac{1}{2}$  S W  $\frac{1}{4}$  sec. 18, and N E  $\frac{1}{4}$  N W  $\frac{1}{4}$  and N W  $\frac{1}{4}$  N E  $\frac{1}{4}$  sec. 19, T 34 N, R 5 E, F. C. 940, issued to Frederick Natzke, as to S E  $\frac{1}{4}$  S W  $\frac{1}{4}$  sec. 18, and N E  $\frac{1}{4}$  N W  $\frac{1}{4}$  and N W  $\frac{1}{4}$  N E  $\frac{1}{4}$  sec. 19.

The lands in conflict are embraced in a supplemental list "D" of swamp-land selections, which was made and transmitted to this office subsequent to the resurvey of the townships in which they lie, and in relation to which a letter from this office, dated 284 June 18, 1864, was transmitted to your office, which contains the following:

"After the resurveys were made, new selections of swamp lands were also made and transmitted to this office, but before these new selections were received, the office had *approved and patented* to the State most of the selections, for the same townships, under the *old surveys*. \* \* \*

In this connection it may be well to state that the records of this office show that in T 35 N, R 4 E, 8,126.60 acres, and in T 34 N, R 5 E, 11,194.43 acres were patented as above stated.

"The supplemental list 'D' to which you refer was made from the *resurveys*, and was originally intended to abrogate or supersede the old list in the townships contained in said "supplemental list D," but inasmuch as the selections under the old surveys, in that portion of the Detroit district, had been acted upon and carried into patent, that course was found to be impracticable. As this office cannot recognize two lists of swamp-land selections for the same townships made from different and conflicting surveys, and having, as stated, acted upon *one*, we must of necessity ignore the other.

"You will therefore consider the *original list* made under the *old surveys*, a copy in part of which was sent you on 15th April last, as being the only list to govern you in the townships therein contained."

In view of the action of this office heretofore had (as above), touching said "supplemental list D," you are advised, that the claim of the State thereunder, for the lands herein described as being in conflict, is this day held for rejection.

Advise the State authorities, and all other parties known to be in interest, in accordance with the foregoing, allowing the usual time under the rules of practice for appeal, and after the expiration of the time allowed, report whether or not whether an appeal has been taken.

Very respectfully,

WM. A. J. SPARKS,

*Commissioner.*

285 And after like offer, objection, ruling and exception, defendant's counsel read

#### EXHIBIT 150.

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

WASHINGTON, D. C., Nov. 8, 1887.

Register & receiver, East Saginaw, Mich.

GENTLEMEN: The N E  $\frac{1}{4}$  of the N W  $\frac{1}{4}$  of section 8, in township 23 north, of range 2 west, Michigan, which is embraced in cash entry No. 12481, made at your office July 12, 1881, in the name of Maria E. Ortman, appears to be claimed as swamp land by the State of Michigan.

The only evidence in this office in support of said claim is a list of selections reported to this office Dec. 24, 1852. It was subsequently ascertained that the surveys from which said selections were made were erroneous, and a new survey was ordered by this office, and was made under the direction of the surveyor general for Michigan, in June, 1853, and a new list to be in lieu of the list of Dec. 24, 1852, was reported by him to this office October 12, 1853, in which new list the foregoing described tract is not embraced.

Said tract is not shown by the field-notes of survey to be swamp or overflowed land within the meaning of the grant, nor has it been approved or patented to the State.

In view of the foregoing, the claim of the State of Michigan to said tract, under the swamp-land grant, is this day held for rejection.

Notify the governor of Michigan of this action, and allow the usual time for appeal, and thereafter make full report to this office, with evidence of the service of such notice.

Very respectfully,

W. A. J. SPARKS,

*Commissioner.*

286 After like offer, objection, ruling and exception, defendant's counsel read

### EXHIBIT 151.

Address only the Commissioner of the General Land Office.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., *Jan'y 30th, 1868.*

Register & receiver, Ionia, Mich.

GENTLEMEN: This office had under consideration the case of the entries and locations by Addison P. Brewer, Wellington R. Burt, Frederick Hall and Lannon B. Townsend, embracing some 13,453 acres in township- 18, 19 and 20 N of R 3 W, which was the subject of our letters to you of the 9th April and 24th July, 1867, and your joint report on the 5th August following.

These entries and locations are contested by the Flint and Pere Marquette, and the Jackson, Lansing and Saginaw (formerly Amboy, Lansing and Traverse Bay) Railroad Companies, and by Messrs. Royal C. Remick and Thomas Merrill. You report a hearing had in the case, and forward the testimony adduced with your opinion thereon.

It appears that the lands in question were brought into market in 1840. In 1852, they were selected by the State of Michigan as swamp, under the act of September 28th, 1850, and the selections regularly entered on the books and plats of the local office and the records of this office. In 1857, a resurvey of townships 18, 19 and 20 N of range 3 W was had, from which it appears that these lands were not swamp, and, therefore, in 1858, the swamp selections were set aside, and others substituted from which these lands were omitted.

It appears from the testimony that Mr. Remick, in 1854, and Mr. Merrill, in 1863, applied to enter larger portions of the land in question. These applications were then rejected at your office on the ground that it was State swamp land, and therefore not subject to entry. In February, 1863, Wellington R. Burt and

287 Thomas Snell were allowed to make locations of this land to the extent of some two thousand eight hundred acres, with military county land warrants, but the locations were cancelled by this office, per letters to the register and receiver, of the 15th April and the 6th June, 1863.

In 1866, the entries and locations now in contest were allowed. The act of June 3d, 1856, made a grant of land to Michigan for railroad purposes, embracing the odd-numbered sections within six-mile limits on each side of roads provided for in the act, with the right to select indemnity for such tracts thereon as were sold or otherwise disposed of from any unreserved lands of the United States, lying in alternate sections outside of the six and within fifteen mile limits.

The public lands liable to disposal within the limits indicated, were, on the 30th May, 1856, withdrawn from market for the adjustment of the grant. All the lands remaining undisposed of in place, in the odd-numbered sections of the six-mile limits were duly certified in the years 1859, 1862 and 1864, as falling within the grant.

The State, having selected December 15th, 1858, to take indemnity for the tracts sold and otherwise disposed of therein from the odd-numbered sections in the fifteen-mile limits, all the lands in the latter sections then appearing on our books as vacant, and not reserved for any purpose, were selected and certified to the State, in the years 1859, 1862 and 1864, as indemnity, the quantity falling short of full indemnity some 75,000 acres.

The land in dispute in this case lies in the fifteen-mile limits, about six thousand four hundred acres thereof being in odd-numbered sections, which portion was not certified as indemnity in adjusting the grant, being covered on our books at the time of selection by the swamp selections of 1852.

On the 11th April, 1859, this office restored to ordinary private entry, per the printed notice No. 631, such of the lands in 288 the townships in question as were no longer required for railroad purposes, and were subject to such entry at the date of withdrawal in 1856 as required by the Attorney General's opinion of July 14, 1837, and General Land Office circular dated January 1st, 1836. See 2 part Laws, Instructions and Opinions, pages 125 and 514. In this state of facts, the said railroad companies claim that portion of the land embraced in the entries and locations in question which lies in odd-numbered sections, on the ground that it falls within the railroad grant of 3d June, 1856, while Messrs. Remick and Merrill the tracts applied for them in 1854 and 1863 under their prior applications.

It is further contended on the part of the contestants that the land in question was legally in market at the date of said entries and locations, and therefore that they should be cancelled, and such portion of the land as may not be awarded to the contestants brought into market after public notice allowing free competition in purchase.

I am of opinion that the swamp selections made in 1852 had the effect to withdraw the lands in question from market, and they were not afterwards restored thereto when other selections were substituted in 1858, which restoration could only be effected after public notice of at least thirty days, according to the 9th section circular of 1st of January, 1836.



From 1852, when the original swamp selections were made, and up to the resurvey in 1857, the lands in question were regarded as swamp disposed of by grant to the State under the act of 1850, and being thus placed in a state of isolation from disposal prior to the railroad grant of 1856, and so continued until after the date of that grant, they are not regarded as within its purview. I am of the opinion, therefore, first, that they were not included in the lands canceled by the act of 1856 for railroad. When the railroad grant was adjusted, these lands were not claimed nor awarded to the grant in the final adjustment, and the claim now advanced on the part of the Commissioner is not recognized as valid by this office.

289 2nd. The claim of Messrs. Remick and Merrill based on their applications to enter in 1854 and 1863 — invalid, as the land was not at the time in the market, and they could have acquired no legal right thereto by such applications.

3rd. Then as regards the entries and locations in question, they are illegal because of the land being out of the market when they were allowed. It is therefore the decision of this office that said entries and locations be canceled, and the lands embraced therein restored to market after the usual public notice.

The parties in interest have the right to appeal to the Hon. Secretary of the Interior; thirty days from the date of the service upon them of notice of this decision will be allowed them in which to appeal should they desire to do so, and you will serve such notice upon them, and report the date of service to this office.

At the expiration of the time allowed, should an appeal not be taken, this decision will be carried into effect.

Very respectfully, your ob't serv't,

JOS. S. WILSON,

*Commissioner.*

And

EXHIBIT 151 A.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, *July 30th, 1869.*

Register & receiver, Ionia, Mich.

GENTS: In the case of the entries of Messrs. Brewer, Burt, Hall & Townsend, in townships 18, 19 & 20 N, of range 3 W, which were the subject of a decision of this office adverse to their validity, rendered in a letter to you of the 30th Jan., 1868, and an appeal having been taken therefrom to the Hon. Secretary of the Interior, affirmed on the 14th July, 1868, by him:

I have to advise you that the parties interested having applied to have the entries confirmed by the board of equitable adjustment under the acts of Aug. 3, 1846, and 26th June, 1856, the Secretary of the Interior, by letter to this office of the 21st inst., finally declined to act for the confirmation thereof, and the entries have therefore been cancelled by this office in pursuance of the decision referred to.

290

The said entries were paid for in part with military bounty land warrants and scrip issued under the agricultural and mechanic acts of July 2, 1862, and in part with cash, as follows, viz: 1st, military B. L. warrant under act of 1850, No. 99773 for 40 acres, and 23514 and 34089 for 80 acres, locations No. 6850, 6854 and 6855; and under the act of 1855, warrants No. 19398, 44658 & 48086 for 80 acres, and 28913, 35108, 47314, 47421; 63009, 72979, 77427, 90853, 95138, 96516 for 120 acres; and 79568, 84870, 85789, 87752, 103,786, 104,242, 104,363, 104,930, 105,017, 105,426, 105,463, 105,491, 105,516 for 160 acres, locations No. 3419, 3417, 3420, 3418, 3250, 3344, 3401, 3397, 3396, 3402, 3398, 3389, 3431, 3404, 3424, 3432, 3345, 3435, 3434, 3375, 3400, 3393, 3392, 3391, 3394 and 3433, and Ag'l C. scrip issued to Penn.; No. 1013, 1014, 1016 to 1027 inclusive, 1029 & 1033 issued to Ohio; No. 185, 186, 187, 603, 690, 691, 692, 1417, 1418, 1419, 1420, 1471 to 1480 inclusive, 1749, 1751, 1753, 1758 to 1765 inclusive, 1768, 1830, 1831 & 1832, locations No. 326, 327, 329 to 340 inclusive, 372, 373, 363, 364, 365, 367, 368, 369, 370, 374, 392, 375 to 386 inclusive, 540, 501, 503, 508 to 515 inclusive, 518, 497, 498 and 499; and 3d, cash entries No. 19153, 19154, 19155, 19156, 19159, 19160, 19161, 19164, 19165, 19166, 19167, 19168, 19170, 19174, 19193, 19195, 19197, 19198, 19202, 19203, 19217, 19225, 19247 to 19253 inclusive.

You will note on your records the cancellation of the said locations and cash entries referring to this letter and that of Jan 30th, 1868.

The B. L. warrants and pieces of scrip used in this case as 291 before stated, are herewith inclosed that you may return them to the proper parties for relocation according to law.

In regard to the cash entries, you will notify the parties that the purchase-money paid thereon will be refunded, on the application through you in the usual form.

The tracts covered by the canceled entries you will offer for sale to the highest bidder at a time which you will fix, and of which you will give public notice without delay, according to the form of advertisement enclosed herewith, which embraces a description list of the tracts in question, and should any of the tracts remain unsold after such offering, they will, the day after, be subject to ordinary private entry by the first legal applicants.

You will accordingly fill up the blanks left in the enclosed advertisement by inserting the date and the time to be fixed for the offering of the tracts, attaching thereto your official signature, and cause the same to be published at least once a week for sixty days preceding the time for the offering, in some newspaper of general circulation in the vicinity of the lands.

You will promptly report your proceeding pursuant to these instructions.

Very respectfully, your ob't serv't,

JOS. S. WILSON,  
*Commissioner.*

After like offer, objection, ruling, and exception, defendant's counsel read

## EXHIBIT 152.

SURVEYOR GENERAL'S OFFICE,  
ST. PAUL, May 13th, 1858.

S. B. Treadwell, Esq., commis'r State land office, Lausing, Michigan.

SIR: By desire of the surveyor general, who left this yesterday morning with the maps, field notes, etc., of the surveys in Michigan, to be transferred to your charge on the part of the State, I have this day mailed to your address the original supplemental lists of swamp or overflowed lands in townships contained within the "Cheboygan," "Grand River," and "Saginaw" land districts, as made up from the resurveys platted since the date of the last supplemental lists of said land districts, which were transferred with other papers to your charge on May, 1857.

Very respectfully, your ob't serv't,

(Signed)

W. R. WOOD,  
Chief Clerk Sur. Gen'l's Office.

(File vault.)

After like offer, objection, ruling and exception, defendant's counsel read a duly certified copy from the State land office of Michigan,

## EXHIBIT 153.

Original.

*Supplemental List E.*

List of swamp or overflowed lands prepared under the act of Congress approved Sept. 28th, 1850, and in accordance with instructions from the Commissioner of the General Land Office, situate in the *Cheboygan land district*, in the State of Michigan, in townships *resurveyed* and platted from Feb'y 16th, 1857, to May 1st, 1858, this list being intended to supersede or be in the place of list of swamp lands heretofore made of townships contained in it.

Description.	Section.	Town.		Range.	Acres.	Remarks.
		N.	W.			
Lot No. 1 .....	25	<del>28</del>	3		20.94	
Lot No. 3 .....	"	"	"		40.01	
S E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"		40.00	
N E $\frac{1}{4}$ .....	36	"	"		160.00	
N W $\frac{1}{4}$ .....	"	"	"		160.00	
S W $\frac{1}{4}$ .....	"	"	"		160.00	

Erasure in pencil in original.

Description.	Section.	Town.	Range.		Acres.	Remarks.
			N.	W.		
293 W $\frac{1}{2}$ S E $\frac{1}{4}$ ..	36	28	3		80.00	<i>661.95</i>
SE $\frac{1}{4}$ S W $\frac{1}{4}$ ..	2	"	4		40.00	
N E fr. $\frac{1}{4}$ N E fr. $\frac{1}{4}$ ..	6	"	"		40.18	
N W fr. $\frac{1}{4}$ N E fr. $\frac{1}{4}$ ..	"	"	"		40.02	
S $\frac{1}{2}$ N E fr. $\frac{1}{4}$ ..	"	"	"		80.00	
N E fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ..	"	"	"		39.85	
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ..	"	"	"		34.74	
S W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ..	"	"	"		34.95	
S E $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ..	"	"	"		40.00	
E $\frac{1}{2}$ S W fr. $\frac{1}{4}$ ..	"	"	"		80.00	
N W fr. $\frac{1}{4}$ S W fr. $\frac{1}{4}$ ..	"	"	"		34.90	
S W fr. $\frac{1}{4}$ S W fr. $\frac{1}{4}$ ..	"	"	"		34.85	
W $\frac{1}{2}$ S E $\frac{1}{4}$ ..	"	"	"		80.00	
S $\frac{1}{2}$ S W $\frac{1}{4}$ ..	11	"	"		80.00	
S W fr. $\frac{1}{4}$ S W fr. $\frac{1}{4}$ ..	18	"	"		35.73	
N W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ..	19	"	"		35.50	
S W fr. $\frac{1}{4}$ N W fr. $\frac{1}{4}$ ..	"	"	"		34.98	
N W fr. $\frac{1}{4}$ S W fr. $\frac{1}{4}$ ..	"	"	"		34.36	
E $\frac{1}{2}$ S W $\frac{1}{4}$ ..	26	"	"		80.00	<i>880.06</i>

I certify that the foregoing list of swamp or overflowed lands, prepared under the act of Congress of Sept. 28th, 1850, has been correctly made from the original plats of townships that have been resurveyed in the Cheboygan land district in the lower peninsula of Michigan.

C. L. EMERSON,  
*Surveyor General.*

Surveyor general's office, St. Paul, May 13th, 1858.

Italic figures under "Remarks" in red ink in original.  
Erasure in pencil in original.

294 And after like offer, objection, ruling and exception, defendant's counsel read from a copy duly certified by the State land office of Michigan,

## EXHIBIT 154.

*Approved List No. 11, Ionia.*

## No. 11.

A list of swamp and overflowed lands selected as enuring to the State of Michigan under the provisions of the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Ionia, Michigan.

Description.	Sec.	Town.	Range.	Acres.
		N.	W.	
W $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	1	24	9	80.00
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	1	"	"	40.00
S E $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ .....	2	"	"	40.00
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	2	"	"	40.00
E $\frac{1}{2}$ S E $\frac{1}{4}$ .....	2	"	"	80.00
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	4	"	"	40.00
E $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	4	"	"	80.00
S E $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ .....	6	"	"	40.00
S E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	7	"	"	40.00
S E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	8	"	"	40.00
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	8	"	"	40.00
E $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	8	"	"	80.00
N W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	8	"	"	40.00
S W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	9	"	"	40.00
S $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	9	"	"	80.00
N E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	11	"	"	40.00
N W $\frac{1}{4}$ .....	12	"	"	160.00
W $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	13	"	"	80.00
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	13	"	"	80.00
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	14	"	"	40.00
S E $\frac{1}{4}$ .....	14	"	"	160.00
W $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	17	"	"	80.00
N E $\frac{1}{4}$ .....	18	"	"	160.00
295 S E $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	18	24	9	40.00
S W fr. $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ ..	18	"	"	53.61
E $\frac{1}{2}$ of S W fr'l $\frac{1}{4}$ .....	18	"	"	80.00
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	18	"	"	80.00
N E $\frac{1}{4}$ .....	19	"	"	160.00
E $\frac{1}{2}$ of N W fr'l $\frac{1}{4}$ .....	19	"	"	80.00
N W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	19	"	"	54.01
S W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	19	"	"	54.31
N W fr'l $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	19	"	"	54.61
S W fr'l $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	19	"	"	54.91

Description.	Sec.	Town.		Acres.
		N.	W.	
E $\frac{1}{2}$ of S W fr'l $\frac{1}{4}$ .....	19	24	9	80.00
N W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	19	"	"	40.00
N $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	20	"	"	80.00
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	22	"	"	40.00
E $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	22	"	"	80.00
N E $\frac{1}{4}$ .....	23	"	"	160.00
E $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	23	"	"	80.00
S W $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	23	"	"	40.00
S W $\frac{1}{4}$ .....	23	"	"	160.00
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	23	"	"	80.00
N E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	23	"	"	40.00
W $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	24	"	"	80.00
S E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	25	"	"	40.00
W $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	25	"	"	80.00
E $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	25	"	"	80.00
S $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	26	"	"	80.00
E $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	27	"	"	80.00
N W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	27	"	"	40.00
S W $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	30	"	"	40.00
E $\frac{1}{2}$ of N W fr'l $\frac{1}{4}$ .....	30	"	"	80.00
N W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	30	"	"	54.10
S W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	30	"	"	52.21
N W fr'l $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	30	"	"	50.31
S W fr'l $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	30	"	"	48.42
E $\frac{1}{2}$ of S W fr'l $\frac{1}{4}$ .....	30	"	"	80.00
296 W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	30	24	9	80.00
W $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	32	"	"	80.00
S E $\frac{1}{4}$ of N E $\frac{1}{4}$ .....	32	"	"	40.00
N W $\frac{1}{4}$ .....	32	"	"	160.00
E $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	32	"	"	80.00
S E $\frac{1}{4}$ .....	32	"	"	160.00
S W $\frac{1}{4}$ .....	33	"	"	160.00
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	33	"	"	80.00
S E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	33	"	"	40.00
S $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	34	"	"	80.00
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	34	"	"	40.00
E $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	34	"	"	80.00
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	34	"	"	80.00
N E $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	34	"	"	40.00
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	35	"	"	80.00
N W $\frac{1}{4}$ .....	35	"	"	160.00
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	36	"	"	80.00
N $\frac{1}{2}$ of N W $\frac{1}{4}$ .....	36	"	"	80.00

Description.	Sec.	Town.	Range.	Acres.
S E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	2	N. 28	W. 4	40.00
N E fr'l $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ .....	6	"	"	40.18
N W fr'l $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ .....	6	"	"	40.02
S $\frac{1}{2}$ of N E fr'l $\frac{1}{4}$ .....	6	"	"	80.00
N E fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	6	"	"	39.85
N W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	6	"	"	34.74
S W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	6	"	"	34.95
S E $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	6	"	"	40.00
E $\frac{1}{2}$ of S W fr'l $\frac{1}{4}$ .....	6	"	"	80.00
N W fr'l $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	6	"	"	34.90
S W fr'l $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	6	"	"	34.85
W $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	6	"	"	80.00
S $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	11	"	"	80.00
S W fr'l $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	18	"	"	35.73
N W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	19	"	"	35.50
S W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .....	19	"	"	34.98
N W fr'l $\frac{1}{4}$ of S W fr'l $\frac{1}{4}$ .....	19	"	"	34.36
E $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	26	"	"	80.00

\* 285 and erasure in pencil in original.

297 SWAMP LAND DIV., GEN. LAND OFFICE, *June 5th, 1866.*

This is to certify that the foregoing tracts of land in the Ionia, Michigan, district were all duly selected and reported to this office as swamp land, prior to the date of the confirmatory act 3rd March, 1857.

(Signed)

W. W. CURTIS,  
*Ch'f C'k Swamp Div.*

GENERAL LAND OFFICE, *June 8th, 1866.*

Respectfully submitted for approval.

(Signed)

J. M. EDMUNDS,  
*Commissioner.*

DEPARTMENT OF THE INTERIOR, *June 9th, 1866.*

The foregoing list of selections is hereby approved subject to any valid legal right that may exist to any of the tracts therein described.

(Signed)

W. T. OTTO,  
*Act'g Secretary.*

GENERAL LAND OFFICE, *June 13th, 1866.*

I, J. M. Edmunds, Commissioner of the General Land Office, do hereby certify that the foregoing is a true copy of approved list No. 11 of swamp and overflowed lands selected as enuring to the

State of Michigan, under the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Ionia, Michigan.

*In testimony whereof*, I have hereunto subscribed my name and caused to be affixed the seal of the General Land Office,  
[SEAL.] at the city of Washington, the day and year above written.

J. M. EDMUNDS,  
*Commissioner.*

298 And after like offer, objection, ruling and exception, defendant's counsel read

EXHIBIT 155.

STATE OF MICHIGAN,  
EXECUTIVE OFFICE, LANSING, June 20, 1866.

Hon. J. M. Edmunds, Commissioner of the Gen'l Land Office, Washington, D. C.

SIR: I have the honor to acknowledge the receipt of a certified copy of approved list No. 11 of swamp and overflowed lands in the Ionia district, selected as enuring to the State of Michigan under the act of Congress approved Sept. 28th, 1850, embracing 130,162.40 acres.

I have also the honor to request that patents for said lands may issue to the State of Michigan, as soon as practicable, conveying the fee-simple title thereof to said State.

I have the honor to be, very respectfully, yours, etc.,

HENRY H. CRAPO,  
*Governor of Michigan.*

And after like offer, objection, ruling, and exception, defendant's counsel read from a copy duly certified by the State land office of Michigan

EXHIBIT 156.

THE UNITED STATES OF AMERICA.

No. 22.

To all to whom these presents shall come, Greeting:

*Whereas*, by the act of Congress approved Sept. 28th, 1850, entitled an "Act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," it is provided that all the "swamp and overflowed lands" made unfit thereby  
299 for cultivation within the State of Michigan, which remained unsold at the passage of said act, shall be granted to said State.

*And whereas*, in pursuance of instructions from the General Land Office of the United States, the several tracts or parcels of land here-



inafter described have been selected as "swamp and overflowed lands" enuring to the said State, under the act aforesaid, being situated in the district of lands subject to sale at Ionia, Michigan, to wit:

Township 28 N, R 4 west.

The southeast quarter of the southwest quarter of section two; the north half, the southwest quarter, and the west half of the southeast quarter of section six; the south half of the southwest quarter of section eleven; the southwest fractional quarter of the southwest fractional quarter of section eighteen; the west fractional half of the northwest fractional quarter, and the northwest fractional quarter of the southwest fractional quarter of section nineteen; and the east half of the southwest quarter of section twenty-six; containing in all eight hundred and eighty acres and six-hundredths of an acre.

Township 24 N, R 9 west.

The west half of the southwest quarter, and the southeast quarter of the southwest quarter of section one; the southeast quarter of the northeast fractional quarter; the southwest quarter of the southeast quarter, and the east half of the southeast quarter of section two; the southwest quarter of the southeast quarter, and the east half of the southeast quarter of section four; the southeast quarter of the northeast fractional quarter of section six; the southeast quarter of the southeast quarter of section seven; the southeast quarter of the northeast quarter, the southwest quarter of the southwest quarter, the east half of the southwest quarter, and the northwest quarter of the southeast quarter of section eight; the southwest quarter of the northeast quarter, and the south half of the northwest quarter of section nine; the northeast quarter of the northeast quarter of section eleven; the northwest quarter of section twelve; the west half of the northeast quarter, and the west half of the southeast quarter of section thirteen; the southeast quarter of the southwest quarter, and the southeast quarter of section fourteen; the west half of the northwest quarter of section seventeen; the northeast quarter, the southeast quarter of the northwest fractional quarter, the southwest fractional quarter of the southwest fractional quarter, the east half of the southwest fractional quarter, the west half of the southeast quarter of section eighteen; the north fractional half, the southwest fractional quarter, and the northwest quarter of the southeast quarter of section nineteen; the north half of the northwest quarter of section twenty; the southwest quarter of the southeast quarter, and the east half of the southeast quarter of section twenty-two; the northeast quarter, the east half of the northwest quarter, the southwest quarter of the northwest quarter, the southwest quarter, the west half of the southeast quarter, and the northeast quarter of the southeast quarter of section twenty-three; the west half of the southwest quarter of section twenty-four; the southeast quarter of the northeast quarter, the west half of the northeast quarter, and the east half of the southeast quarter of section twenty-five; the south half of the southwest quarter of section

twenty-six; the east half of the northeast quarter, and the northwest quarter of the northeast quarter of section twenty-seven; the southwest quarter of the northeast quarter, the west fractional half, and the west half of the southeast quarter of section thirty; the west half of the northeast quarter, the southeast quarter of the northeast quarter, the northwest quarter, the east half of the southwest quarter, and the southeast quarter of section thirty-two; the southwest quarter, the west half of the southeast quarter, and the southeast quarter of the southeast quarter of section thirty-three; the south half of the northeast quarter, the southwest quarter of the southwest quarter, the east half of the southwest quarter, the west half of the southeast quarter, and the northeast quarter of the southeast quarter of section thirty-four; the north half of the northeast quarter, and the northwest quarter of section thirty-five; the north half of the northeast quarter, and the north half of the northwest quarter of section thirty-six, containing in all five thousand six hundred and seventy-six acres and forty-nine hundredths of an acre, according to the official plat of survey of the said lands returned to the General Land Office by the surveyor general, and for which the governor of the said State of Michigan did, on the twentieth day of June, one thousand eight hundred and sixty-six, request a patent to be issued to the said State, as required in the act aforesaid.

*Now, therefore, know ye*, that the United States of America, in consideration of the premises and in conformity with the act of Congress aforesaid, have given and granted and by these presents do give and grant unto the said State of Michigan, in fee-simple, subject to the disposal of the legislature thereof, the tracts of land above described.

To have and to hold the same, together with all the rights, privileges, immunities and appurtenances thereto belonging, unto the said State of Michigan, in fee-simple, and to its assigns forever.

In testimony whereof, I, Andrew Johnson, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the twenty-sixth day of December, in the year of our Lord one thousand eight hundred and sixty-six, and of the Independence of the United States the ninety-first.

By the President :

ANDREW JOHNSON.

By EDW. D. NEILL, *Secretary*.

MARTIN BUELL,

*Acting Recorder of the General Land Office ad Interim.*

Recorded vol. 2, pages 400 to 417 inclusive.

302 After like offer, objection, ruling and exception, defendant's counsel read

## EXHIBIT 157.

STATE LAND OFFICE, LANSING, *April 5th*, 1859.

To his excellency M. Wisner.

DEAR SIR: I herewith enclose a true copy of a letter from Thos. A. Hendricks, Commissioner of the General Land Office at Washington.

Also a list accompanying the same letter embracing a list of the towns approved and patented to the State under the original surveys. Also a list that *have* been approved and not patented to the State. I also send you document No. 2, with description of the towns and ranges, showing the difference in the amount of swamp lands under two surveys. Also under the two lists sent up to this office, and have been compared and found correct, or nearly so, which amounts to 78,965 and ninety-seven one-hundredths A. less by the resurvey, which operates against the interests of the State, not only in the number of acres, but much more so in the quality of the land. The difference in the lands now patented to the State between the old and the new survey amounts to 235,000 A., and I judge by this communication that the department at Washington do not propose to change that list.

And under all circumstances in the case, I don't know why they cannot give us the patents under the old list, as approved, with the same propriety that they have the others.

The erroneous surveys were known to the department before these patents were made, and must have come within the knowledge of the department about the time Congress made the law granting the swamp lands to the State. The resurveys commenced in 1852, and continued up to 1856, from year to year, and *was* sent to the department yearly I should suppose. I herewith enclose to you document No. 3, which you can examine. It has some illustrations showing the discrepancy in the two surveys, and the trouble in locating a portion of the lands contained in the patents from G. Government.

We have about 3,000 to 4,000 acres that cannot be located under the new surveys.

I hope you will look the whole matter over, and answer the enclosed letter as soon as you can consistently.

We have continual applications for these swamp lands that have not been patented.

Respectfully,

JAMES W. SANBORN.

(Enclosed in the foregoing was a letter of which Exhibit 23 is a copy.)

After like offer, objection, ruling, and exception, defendant's counsel read from a report of the committee on public lands to the legislature of 1861 as

## EXHIBIT 158.

Legislature, }  
1861. }

} House Doc.  
} No. 9.

(No. 9.)

*Report of the Committee on Public Lands Relative to the State Swamp Lands.*

The committee on public lands, to whom was referred so much of the governor's message as relates to the public lands, have had the same under consideration, and direct me to report :

That the policy heretofore inaugurated to reclaim the swamp lands by means of roads and ditches, meets our approbation. The law regulating the same, however, should be so amended as to lessen the expense, and still be more efficient. In accordance with this view we have reported a bill amendatory to act No. 117, of Session Laws of 1859, the provisions of which are, in our opinion, amply sufficient to accomplish the ends sought :

304 1st. There is to be but one commissioner.

2d. The contractor may select his lands upon the approval of his contract by the State board.

3d. He may make the selection from any lands applicable to his road without regard to county limits in which the road is located.

The single commissioner, being at all times subject to direction and control, or removal by the State board, and being obliged to report as often as said board shall direct, is under such restraint as in our opinion will be an ample safeguard against abuse of his powers.

The saving of expense by having only one instead of three commissioners, as at present provided, is a sufficient argument in favor of the change.

The provision for withholding from market the lands selected by the contractor, until the time of completing his work, it is believed will more effectually secure the taking of such jobs by responsible men, with capital to enable them to go on with the same independent of any aid from the treasury, thus making the lands alone build the roads and construct the ditches.

The right of a contractor doing a job in one county, to select his lands in another, will in many instances enable such contractor to take lands convenient to his residence, though his work may be done in a distant county, and though the land selected, as will often be the case, may be of less intrinsic value, it is more desirable to him from the fact of its being in his immediate vicinity ; while the lands on the road constructed will be left open to entry by actual settlers.

We find that the State is at this time indebted to contractors on roads for work already done, to the amount of \$30,507.71, payable

according to their contracts, in *cash*. (See statement A hereunto attached.)

Some of said contractors have expressed a willingness to take lands in liquidation of their entire claim, and others a part of theirs at least, provided they can have the privilege of making the  
 305 selection from any of the swamp lands in the State. What difference can it make to the State whether the lands be taken, or the money arising from the sale of the same whenever located, as is now the case. There can certainly be no objection to this mode of payment, and if such right of selection is more valuable for the payment of a debt already due, it is equally so for the construction of new roads.

In order to give the house a better understanding of the whole matter, the committee have procured and herewith present a statistical table (marked B), whereby it will be seen that the whole amount granted to the State is 5,890,361 acres, of which the State has received patents for 5,082,375 acres, leaving unpatented 807,985 acres.

Amount disposed of, 429,489 acres, showing the amount unsold to be 5,460,871 acres. Included in the amount disposed of is the amount licensed, 71,222 acres.

By reference to the statistical table herewith annexed, the amount in each county will be easily ascertained.

It will be seen that the amount of land yet undisposed of is very great, and that we need have no fear of exhausting it by liberal appropriations for road and drainage. It should not be squandered, though the policy of putting it into valuable and permanent improvements, calculated to induce settlers to occupy and cultivate it, to as great an extent as possible, is earnestly recommended.

The committee are decidedly of the opinion that the appropriation of the lands themselves, rather than agreeing to pay money hereafter, to accrue from sales, is far the best policy: as in so doing the contractor will know for a certainty that his pay is ready on the completion of his work, instead of being left in doubt as to when the funds will be realized. Besides, the State will at no time be a debtor, with inability to cancel the claim according to her agreement with the contractor.

The committee are also of the opinion that the granting of these lands to actual settlers by a former legislature was a move  
 306 in the right direction. They would, however, recommend such a change in the law as will allow the settler to take 60 acres, or any fractional lot over 40 and less than 80 acres, or even 80 and less than 120 acres; paying for all over 80 acres, in the latter case, at the minimum price paid by law, and at the same time providing some more effectual means for insuring the drainage, improvement and occupancy of the homestead thus donated. The grant of 80 acres would induce a more desirable class of persons to settle on the lands, especially if such persons were allowed to purchase an additional 80-acre lot under the provisions of the act for the sale by payment of one-quarter down, and we recommend that such a provision be incorporated into the act as an amendment to

the law now in force. The occupant under license should also have the privilege at any time, of paying for the land licensed at the minimum price, and receive a patent from the State.

In accordance with these suggestions the committee have prepared and herewith present a bill embodying such provisions as they believe will meet your approbation, and recommend its passage, and ask to be discharged from further consideration of the subject.

All of which is respectfully submitted.

J. C. WATERBURY, *Chairman.*

307

## STATEMENT B.

*Swamp-land Statement, Showing Amount Sold, Licensed, and Unsold in Each County to January 1st, 1861.*

County.	Amount swamp land in.	Amount pat- ented.	Amount not patented.	Amount sold, including li- censes.	Amount unsold.	Amount li- censed.
Alcona.....	122,940.15	122,940.15		1,343.92	121,596.23	144.25
Allegan.....	33,169.17	33,169.17		16,187.16	16,982.01	6,145.99
Alpena.....	251,014.73	251,014.73		4,368.50	246,646.23	140.60
Antrim.....	38,980.50		38,980.50		38,980.50	
Bay.....	117,174.42	117,174.42		15,112.44	102,061.98	5,253.19
Barry.....	5,167.75	5,167.75		4,467.97	699.78	1,451.28
Berrien.....	7,432.09	7,432.09		7,326.80	105.29	
Branch.....	4,499.42	4,499.42		4,499.42		
Calhoun.....	12,910.65	12,910.65		12,362.95	547.70	40.00
Cass.....	7,421.39	7,421.39		6,853.87	567.52	
Cheboygan.....	177,540.33	139,819.22	37,721.11	2,065.06	175,475.27	1,221.65
Chippewa.....	531,573.56	531,573.56		467.60	531,105.96	276.15
Clare.....	93,720.56	59,950.08	33,770.48	2,951.92	90,768.64	
Clinton.....	23,312.35	19,683.91	3,628.44	12,038.40	11,273.95	555.17
Crawford.....	41,311.65	23,970.37	17,341.28		41,311.65	
Delta.....	498,635.24	498,635.24		3,914.95	494,720.29	
Eaton.....	15,237.99	15,237.99		10,684.12	4,553.87	1,703.81
Emmet.....	105,808.28		105,808.28		105,808.28	
Genesee.....	4,197.64	4,197.64		3,671.15	526.49	952.03
Gladwin.....	100,643.25	100,643.25		2,462.27	98,180.98	
Grand Traverse.....	29,264.95		29,264.95		29,264.95	
Gratiot.....	50,750.38	47,885.15	2,865.23	13,606.45	37,143.93	4,227.62
Hillsdale.....	1,299.78	1,299.78		1,299.78		
Houghton.....	98,711.43	98,711.43		11,175.48	87,535.95	
Huron.....	170,301.78	170,301.78		15,761.31	154,540.47	6,428.35
Ingham.....	16,333.75	16,333.75		12,110.35	4,223.40	320.00
Ionia.....	11,070.51	11,070.51		8,280.12	2,790.39	1,235.50
Iosco.....	69,013.71	69,013.71		890.19	68,123.52	342.64
Isabella.....	53,093.63	27,936.51	25,157.12	3,717.72	49,375.91	480.00
Jackson.....	4,801.45	4,801.45		4,801.45		
Kalamazoo.....	5,684.78	5,684.78		5,519.41	165.37	
Kalkaska.....	44,634.15		44,634.15		44,634.15	
Kent.....	14,791.18	14,791.18		11,052.81	3,738.37	2,717.74
Lake.....	23,266.69	12,082.19	11,184.50		23,266.69	
Lapeer.....	20,855.89	20,855.89		12,953.19	7,902.70	4,587.33
Leelanaw.....	33,421.20		33,421.20		33,421.20	
Lenawee.....	1,800.00	1,800.00		1,800.00		

## Statement B—Continued.

County.	Amount swamp land in.	Amount pat- ented.	Amount not patented.	Amount sold, including li- censes.	Amount unsold.	Amount li- censed.
Livingston .....	3,796.64	3,796.64		3,134.16	662.48	
Mackinac .....	353,223.22	353,223.22		1,006.25	351,616.97	865.70
Macomb .....	41.65	41.65		41.65		
Manistee .....	47,633.60		47,633.60		47,633.60	
Manitou .....	3,500.96	3,500.96		399.71	3,101.25	80.00
Marquette .....	464,945.55	464,945.55		3,914.86	461,030.69	
Mason .....	42,497.16		42,497.16		42,497.16	
Meecosta .....	61,681.29	61,681.29		11,769.88	49,911.41	3,394.00
Midland .....	35,850.88	35,850.88		2,703.83	33,147.05	240.00
Missaukee .....	104,244.08		104,244.08		104,244.08	
Monroe .....	4,563.85	4,563.85		2.00	4,561.85	
Montcalm .....	33,341.55	33,341.55		10,716.77	22,624.78	4,531.64
Montmorency .....	102,470.23	102,470.23		160.00	102,310.23	
Muskegon .....	47,881.12	34,004.74	13,876.38	2,492.27	45,388.85	720.00
Newaygo .....	74,170.58	44,007.78	30,162.80	2,815.91	71,355.57	1,068.22
Oakland .....	2,365.45	2,365.45		2,115.99	249.46	120.00
Oceana .....	44,045.87		44,045.87		44,045.87	
Ogenaw .....	65,121.44	65,121.44		1,691.00	63,430.44	
Ontonagon .....	109,191.61	109,191.61		513.95	108,677.66	
Osceola .....	46,629.95	46,629.95		4,725.80	41,904.15	
Oscoda .....	22,924.75	22,924.75			22,924.75	
Otsego .....	39,287.70	31,734.97	7,552.73		39,287.70	
Ottawa .....	27,699.27	27,699.27		5,709.39	21,989.88	2,120.00
Presque Isle .....	217,867.90	217,867.90		987.30	216,880.60	
308 Roscommon .....	100,275.37	42,656.91	57,618.46		100,275.37	
Saginaw .....	65,875.27	65,875.27		20,066.60	45,808.67	7,338.24
Sanilac .....	143,807.61	143,807.61		57,820.74	85,986.87	4,427.87
Schoolcraft .....	569,640.31	520,402.99	49,237.32		569,640.31	
Shiawassee .....	17,061.78	17,061.78		13,013.41	4,048.37	1,959.79
St. Clair .....	28,427.57	28,427.57		17,093.85	11,333.72	1,798.84
St. Joseph .....	3,383.06	3,383.06		3,343.06	40.00	
Tuscola .....	108,932.93	108,932.93		21,361.82	87,551.11	7,663.87
Van Buren .....	26,985.06	26,985.06		25,673.96	1,311.10	880.00
Washtenaw .....	1,749.94	1,749.94		1,749.94		
Wayne .....	120.00	120.00		120.00		
Wexford .....	27,339.91		27,339.91		27,339.91	
Totals .....	5,890,361.49	5,082,375.94	807,965.55	429,489.96	5,460,871.53	75,422.07

And after like offer, objection, ruling, and exception, defendant's counsel read

## EXHIBIT 159.

STATE OF MICHIGAN, LANSING, *July 10, 1861.*

Hon. James M. Edmunds, General Land Office, Washington.

DEAR SIR: Please find enclosed Statement B, showing the condition of swamp lands in the State of Michigan.

The amount selected according to the rule adopted by the Land Office Department, and remaining unpatented, is shown by counties



in the third column of the tabular statement, and it is to this particular class of land denominated in this office unpatented, to which I desire to call the attention of the Commissioner of the General Land Office.

When probably in the usual routine of your office may we expect patents for the balance accruing to the State of Michigan?

Very respectfully,

SAM'L S. LACEY, *Com.*

Endorsed: F. 80, 765, Sam'l S. Lacey, Lansing, Mich., July 10, 1861. Encloses statement showing the condition of the swamp lands in Michigan. R. Skinner. July 25, 1861.

309 The statement "B" enclosed is the same as that attached to Exhibit 158.

After like offer, objection, ruling and exception, defendant's counsel read extracts from the reports of the commissioner of the State land office of Michigan, for the years 1860 to 1878, inclusive, as

#### EXHIBIT 160.

##### *Report for 1860.*

J. W. Sanborn, commissioner.

Discusses swamp-land question in a general way, concerning the policy of the State, and on page 17 says:

"The complications of the swamp-land question between the State and General Government have not been diminished during my administration, and in view of the constantly increasing difficulties produced by delay, I commend them to your particular attention. With much care I have caused to be prepared lists conclusively showing the discrepancies which prevent an adjustment of the questions which have arisen, and add a summary thereof hereto.

"5,857,462.05 acres have been approved to the State, of which 5,049,125.44 acres have been patented, leaving unpatented and unadjusted 808,336.61 acres. This statement has been made from the approved lists and patents, and is believed to be very nearly correct. But the amounts may be somewhat changed as errors in descriptions are discovered and corrected, and also, the actual amount available may be materially altered by the discrepancies between old and resurveys, 133 townships (74 of which were patented) as approved by the evidences of the old survey, and are affected by subsequent resurveys. In some of the townships only two or three miles of section line were run. On an average about one-

310 half of the lines in these townships were run, consequently the topography, subdivisions of sections, amount and location, have been in all somewhat, and in some way very much altered, the quantity of swamp land generally being much more on the plats of the old than the resurvey. As the plats of the resurvey of these townships were completed, the surveyor general, in accordance with the evidences thereof, made (except 7 townships) new lists of swamp land selections from the plats of the resurvey. Of



said 7 townships this office has calculated the amount and used it for the purpose of this statement as if given by the surveyor general. From this new list, as far as it regards the 74 patented townships, a list has been made of such subdivisions contained therein as are not in the patents, amounting to 67,393.44 acres. The amount given in the patent for said 74 townships is 636,670.89 acres, from which we deduct 2,121 acres which cannot be located without a predated alteration of the plats of resurvey, and 3,986.18 acres that cannot be located at all, and 10,365.64 acres excess in patent over resurvey in such subdivisions as can be located on the plats of resurvey, and add 2,579.49 acres excess in resurvey over patent in such subdivisions as can be located on the plats of resurvey, and we have left us the available amount patented in said townships, 622,779.56 acres, which is 244,476.15 acres more than is contained in the new lists in the same townships. In the remaining 59 townships, which are not yet patented, the amount approved is 306,015.33 acres, while the amount in the new lists thereof is only 225,412.81 acres, being an excess in the approved lists over the amount in the resurvey of 80,602.52 acres, of which, if patented as approved, about 3,000 acres could not be located on the plats of the resurvey.

"We gather from the correspondence on file in this office between the State authorities and the department at Washington, that the General Government proposes to adopt throughout, the resurvey as the basis of patents. Aside from the foregoing townships, there remains 187, containing 502,321.28 acres, situated west of range 311 2 west (except towns 8, 9 and 10, north of range 2 west), in the northern, northwestern and western parts of the Lower Peninsula, which are approved by final surveys, but which are not patented. Besides this last amount, five townships near Keweenaw bay are not yet patented, but are approved by final surveys, and either all or a portion thereof have been reserved by order of the President.

"Town 42 north of range 34 west is approved, but it appears to have been accidentally omitted from the patent. In fifteen townships, original selections, amounting to 35,841.95 acres, were made by the surveyor general from final surveys, but are not yet approved by the State.

"In five townships swamp land appears by the official plats to be due to the State, but no selection appears to have been made therefrom.

"From different official sources, a list of the 'green lands' containing nearly all, has been made. The quantity unpatented is 52,373.55 acres, and the amount patented 5,303.79 acres; 819 acres of swamp land, which *was* sold by the United States prior to the grant, *has* been patented to the State, and a portion thereof sold. It is my firm conviction that this grant can never be adjusted by correspondence. The peculiar circumstances of confliction which have arisen, must be settled, and a basis adopted by personal communication between constituted authorities on the part of the State and United States governments. No patents have been received since January, 1859, and I think, therefore, we have reason to fear

that the department at Washington is withholding those about which there is no conflict, as a lever with which to compel the adjustment of the remainder in accordance with their proposition."

312      *Report for the Year Ending November 30th, 1861.*

Samuel S. Lacey, commissioner.

Page 10 :

"A complete list of the unpatented swamp lands, for which the State is justly entitled to patents, by virtue of the act of Congress of the 26th Sept., 1850, has been made and forwarded to the Commissioner of the General Land Office, with an urgent request that patents issue as speedily as possible. A similar list of the lands denominated 'green lands' has been made and forwarded to that department; and we have the assurance of the Commissioner that the matters there referred to shall have as speedy examination and adjustment as the business of his department will allow."

*Report for 1862.*

Samuel S. Lacey, commissioner.

Page 6, speaking of swamp lands, says :

"It is with great pleasure that I am able to report that my proceedings under the law of 1861 in relation to the unpatented swamp lands have met a prompt response from the present Commissioner of the General Land Office, and that we have received patents for 362,463.28 acres; and that in the communication heretofore referred to, the Commissioner informs me that 'we have also prepared patent No. 15, containing 93,691.25 acres; and patent No. 16, containing 72,585.49 acres; making a total of 533,730.02 acres since last report.' This in the Ionia and Traverse City land districts.

"It is confidently believed that all the questions in relation to our land grants, heretofore unsettled, between the General Government and this State, are in progress of a speedy and satisfactory adjustment."

313

*Report for 1865.*

Cyrus Hewitt, commissioner.

Page 3 says :

"Under act No. 123, session laws of 1861, providing for the selecting and location, the existing deficiency of this class of lands due the State by virtue of the act of Congress approved May 20, 1826, and for all subsequent land grants made by Congress to this State, my immediate predecessor forwarded to the Commissioner of the General Land Office a carefully prepared list of all deficiencies as a basis by which the State could select such balances due. This statement was acted upon by the Commissioner of the General Land Office, and transmitted to this office, where it was again compared and found to disagree in some material points from the plats and

records in this office, and it was again forwarded to the General Land Office for comparison and correction, and has not yet been returned to this office: hence, no selections, on account of the deficiencies, have as yet been made."

Page 6:

"It would seem desirable that the list of "green lands" so often referred to in the reports of my predecessors, should be, in some way, adjusted by the department at Washington, and the descriptions carried into patent, so that the State can grant patents to those who claim title under act 166 of 1855. Fifteen years have passed away since the passage of the grant, and the difficulty seems to be no nearer a proper adjustment, or being finally settled, than when it commenced."

*Report for 1866.*

Cyrus Hewitt, commissioner.

Page 7:

"We have received approved lists of about 231,000 acres of the swamp lands which were omitted in former lists on account of the difficulty of making the selections, by reason of the changes made between the old or fraudulent surveys in some sections of the State, and the resurveys. When patents are received for the lands embraced in such lists, the lands can be speedily brought into market. No public sale has been made of any of the swamp lands since 1863."

*Report for 1868.*

B. D. Pritchard, commissioner.

Page 7:

"The entire amount of swamp lands conveyed to the State by the act of Congress have been patented with the exception of about 40,000 acres, lying in Cheboygan and Houghton counties; and all, excepting about 100,000 acres, have been placed in market."

*Report for 1869.*

B. D. Pritchard, commissioner.

Page 6:

"The greater portion of the swamp lands have heretofore been placed in market. There is still remaining, however, about 100,000 acres unoffered. A public sale is now pending, to take place on the 6th day of January next, at which time it is expected to place in market the entire body of swamp lands for which the State has received patents.

"The amount remaining unpatented is about 35,000 acres, lying in the country of Cheboygan, and is embraced in an Indian reservation, and cannot be reached until said reservation is extinguished."

*Report for 1870.*

B. D. Pritchard, commissioner.

Page 7 :

"As the swamp lands continue to hold so prominent a position in the resources employed for the development of the State, by means of supplying the country with roads and ditches, and the settlers with homesteads, it has been deemed of great importance

315 that a full and reliable statement of the amount and condition of these lands should be placed before the legislature at this time; and, accordingly, such a statement has been prepared at great labor and with the utmost regard for accuracy, and which is the result of a complete footing and computation of all unpatented swamp lands belonging to the State. This statement will appear at the close of his report in tabular form, and from which it will be shown that the total amount of swamp land passed to the State, under the act of Congress of 1850, was 5,794,308.57 acres; that of this amount 3,160,516.21 acres were in the Lower Peninsula, and 2,633,792.36 acres were in the Upper Peninsula.

"To the amount in the Lower Peninsula as above given should be added 18,823.93 acres conveyed by the General Government to replace the lands sold and commonly known as 'green lands.'"

*Report for the Year Ending September 30th, 1872.*

Charles A. Edmonds, commissioner.

Page 6 says:

"Of the 36,128,640 acres of land in the State of Michigan, over thirteen and a half millions of acres, or more than one-third the entire area, have been granted to the State for various purposes by the General Government, as will appear from the following statement."

*Report for 1874.*

L. A. Clapp, commissioner.

Pages 3 and 4 give a list of the lands held by the State, thus:

"The number of acres owned by the State—carefully revised and corrected—is as follows: \* \* \* Swamp patented to State during years 1873 and 1874, not advertised, 2,667.04 acres; swamp, 2,460,850.45 acres; swamp forfeited, 4,117.72 acres; swamp, indemnity, 18,823.93 acres."

Page 7 says:

"Under the congressional grant of September 28, 1850, the State has received patents for 5,838,616 acres of swamp land, so called. Large quantities have, however, proved very valuable  
316 for lumbering and agricultural purposes. There remains yet to be patented to the State several thousand acres. We have secured the approval of 19,863 acres during the fiscal period, which will be carried into patents during the ensuing year."

After like offer, objection, ruling and exception, defendant's counsel read from the records at Washington, D. C.,

## EXHIBIT 161.

*No. 1, Grand River Land District.*

	Sec.	T. N.	R. W.	Acres.	
N E fr'l $\frac{1}{4}$ N W fr'l $\frac{1}{4}$ ...	2	18	3	39.76	NOTE.—The selection in town 18 appears to be superseded by supplemental list No. 3.
S $\frac{1}{2}$ S E $\frac{1}{4}$ .....	3	"	"	80.00	
N E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
S W $\frac{1}{4}$ N W fr'l $\frac{1}{4}$ .....	"	"	"	40.00	
N W fr'l $\frac{1}{4}$ N E fr'l $\frac{1}{4}$ ...	4	"	"	39.06	
S $\frac{1}{2}$ N E fr. $\frac{1}{4}$ .....	"	"	"	80.00	
N W $\frac{1}{4}$ S E $\frac{1}{4}$ .....	"	"	"	40.00	
N E fr'l $\frac{1}{4}$ N W fr'l $\frac{1}{4}$ ...	"	"	"	38.95	
N W fr'l $\frac{1}{4}$ N W fr'l $\frac{1}{4}$ ...	"	"	"	38.84	
S $\frac{1}{2}$ N W fr'l $\frac{1}{4}$ .....	"	"	"	80.00	
N $\frac{1}{2}$ S W $\frac{1}{4}$ .....	"	"	"	80.00	
S W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
N E fr'l $\frac{1}{4}$ N E fr'l $\frac{1}{4}$ ...	5	"	"	38.79	
S $\frac{1}{2}$ N E fr'l $\frac{1}{4}$ .....	"	"	"	80.00	
S E $\frac{1}{4}$ N W fr'l $\frac{1}{4}$ .....	"	"	"	40.00	
S $\frac{1}{2}$ .....	"	"	"	320.00	
S $\frac{1}{2}$ N E fr. $\frac{1}{4}$ .....	6	"	"	80.00	
N E fr'l $\frac{1}{4}$ N W fr'l $\frac{1}{4}$ ...	"	"	"	38.08	
S E $\frac{1}{4}$ N W fr'l $\frac{1}{4}$ .....	"	"	"	40.00	
S E $\frac{1}{4}$ .....	"	"	"	160.00	
E $\frac{1}{2}$ S W fr'l $\frac{1}{4}$ .....	7	"	"	80.00	
E $\frac{1}{2}$ .....	"	"	"	320.00	
Section.....	8	"	"	640.00	
W $\frac{1}{2}$ N W $\frac{1}{4}$ .....	9	"	"	80.00	
N E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
S W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
317 S W $\frac{1}{4}$ S E $\frac{1}{4}$ ...	9	18	3	40.00	
S E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	10	"	"	40.00	
E $\frac{1}{2}$ .....	"	"	"	320.00	
S W $\frac{1}{4}$ .....	11	"	"	160.00	
W $\frac{1}{2}$ S E $\frac{1}{4}$ .....	"	"	"	80.00	
N E $\frac{1}{4}$ S E $\frac{1}{4}$ .....	"	"	"	40.00	
S W $\frac{1}{4}$ N W $\frac{1}{4}$ .....	12	"	"	40.00	
E $\frac{1}{2}$ N W $\frac{1}{4}$ .....	"	"	"	80.00	
N E $\frac{1}{4}$ .....	"	"	"	160.00	
N W $\frac{1}{4}$ N W $\frac{1}{4}$ .....	14	"	"	40.00	
N E $\frac{1}{4}$ N E $\frac{1}{4}$ .....	15	"	"	40.00	
W $\frac{1}{2}$ N E $\frac{1}{4}$ .....	"	"	"	80.00	
N W $\frac{1}{4}$ .....	"	"	"	160.00	
N E $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00	
W $\frac{1}{2}$ S W $\frac{1}{4}$ .....	"	"	"	80.00	

Part in small type in pencil in original.

	Sec.	T. N.	R. W.	Acres.
NW $\frac{1}{4}$ NE $\frac{1}{4}$ .....	17	18	3	40.00
NE $\frac{1}{4}$ NW $\frac{1}{4}$ .....	"	"	"	40.00
W $\frac{1}{2}$ NW $\frac{1}{4}$ .....	"	"	"	80.00
E $\frac{1}{2}$ NE $\frac{1}{4}$ .....	18	"	"	80.00
NW $\frac{1}{4}$ NE $\frac{1}{4}$ .....	"	"	"	40.00
NE $\frac{1}{4}$ NW fr'l $\frac{1}{4}$ .....	"	"	"	40.00
SW fr'l $\frac{1}{4}$ NW fr'l $\frac{1}{4}$ ...	19	"	"	47.23
NW fr'l $\frac{1}{4}$ SW fr'l $\frac{1}{4}$ ...	"	"	"	47.28
SE $\frac{1}{4}$ SW fr'l $\frac{1}{4}$ .....	"	"	"	40.00
S $\frac{1}{2}$ SE $\frac{1}{4}$ .....	20	"	"	80.00
E $\frac{1}{2}$ NW $\frac{1}{4}$ .....	21	"	"	80.00
W $\frac{1}{2}$ NE $\frac{1}{4}$ .....	"	"	"	80.00
NE $\frac{1}{4}$ NE $\frac{1}{4}$ .....	"	"	"	40.00
SW $\frac{1}{4}$ .....	"	"	"	160.00
NW $\frac{1}{4}$ SE $\frac{1}{4}$ .....	"	"	"	40.00
SE $\frac{1}{4}$ SE $\frac{1}{4}$ .....	"	"	"	40.00
SE $\frac{1}{4}$ NW $\frac{1}{4}$ .....	22	"	"	40.00
NE $\frac{1}{4}$ .....	"	"	"	160.00
S $\frac{1}{2}$ .....	"	"	"	320.00
NE $\frac{1}{4}$ NE $\frac{1}{4}$ .....	28	"	"	40.00
W $\frac{1}{2}$ NE $\frac{1}{4}$ .....	"	"	"	80.00
NW $\frac{1}{4}$ .....	"	"	"	160.00
N $\frac{1}{2}$ .....	29	"	"	320.00
NE $\frac{1}{4}$ .....	30	"	"	160.00
NE $\frac{1}{4}$ NW fr'l $\frac{1}{4}$ .....	"	"	"	40.00
NW fr'l $\frac{1}{4}$ NW fr'l $\frac{1}{4}$ ...	"	"	"	47.41
N $\frac{1}{2}$ NE $\frac{1}{4}$ .....	35	"	"	80.00
318				40.00
SW $\frac{1}{4}$ NW $\frac{1}{4}$ ...	36	18	3	80.00 (?) 40 acres.
E $\frac{1}{2}$ NW $\frac{1}{4}$ .....	"	"	"	80.00
NE $\frac{1}{4}$ .....	"	"	"	160.00
* * *	* * *	* * *	* * *	
NW fr'l $\frac{1}{4}$ NW fr'l $\frac{1}{4}$ ...	1	18	4	34.66
SE $\frac{1}{4}$ NE fr'l $\frac{1}{4}$ .....	2	"	"	40.00
NW fr'l $\frac{1}{4}$ NE fr'l $\frac{1}{4}$ ...	"	"	"	34.59
NW fr'l $\frac{1}{4}$ NW fr'l $\frac{1}{4}$ ...	"	"	"	35.99
E $\frac{1}{2}$ SE $\frac{1}{4}$ .....	11	"	"	80.00
SW $\frac{1}{4}$ SE $\frac{1}{4}$ .....	"	"	"	40.00
W $\frac{1}{2}$ SW $\frac{1}{4}$ .....	17	"	"	80.00
W $\frac{1}{2}$ SW $\frac{1}{4}$ .....	20	"	"	80.00
N $\frac{1}{2}$ NE $\frac{1}{4}$ .....	25	"	"	80.00
N $\frac{1}{2}$ NE $\frac{1}{4}$ .....	27	"	"	80.00
SW $\frac{1}{4}$ NE $\frac{1}{4}$ .....	"	"	"	40.00
SE $\frac{1}{4}$ NW $\frac{1}{4}$ .....	"	"	"	40.00
NE $\frac{1}{4}$ SW $\frac{1}{4}$ .....	"	"	"	40.00
SW $\frac{1}{4}$ SW $\frac{1}{4}$ .....	"	"	"	40.00
S $\frac{1}{2}$ NE $\frac{1}{4}$ .....	29	"	"	80.00

Posted vol.  
23, p. 12.

Not subdivided.

	Sec.	T. N.	R. W.	Acres.
N W $\frac{1}{4}$ .....	29	18	4	160.00
S $\frac{1}{2}$ .....	"	"	"	320.00
S E $\frac{1}{4}$ N E $\frac{1}{4}$ .....	30	"	"	40.00
E $\frac{1}{2}$ S E $\frac{1}{4}$ .....	"	"	"	80.00
S W $\frac{1}{4}$ S E $\frac{1}{4}$ .....	"	"	"	40.00
E $\frac{1}{2}$ .....	31	"	"	320.00
N $\frac{1}{2}$ .....	32	"	"	320.00
N W $\frac{1}{4}$ S W fr. $\frac{1}{4}$ .....	"	"	"	40.00
Lot No. 2.....	"	"	"	34.80
Lot No. 1.....	"	"	"	47.34
N $\frac{1}{2}$ S E $\frac{1}{4}$ .....	"	"	"	80.00
S W $\frac{1}{4}$ S E $\frac{1}{4}$ .....	"	"	"	40.00
N $\frac{1}{2}$ .....	33	"	"	320.00
N W $\frac{1}{4}$ S W $\frac{1}{4}$ .....	"	"	"	40.00
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

319

## SURVEYOR GENERAL'S OFFICE.

DETROIT, Mar. 29, 1852.

The above list of swamp lands in the Grand River land district, which has been made up in accordance with the instructions from the General Land Office, dated Nov. 21, 1850, embraces all the lands in said district except such as may be found in townships which have been ordered to be resurveyed. The districts reported by Judge Burt and Hiram Burnham to be fraudulent are embraced in the list and marked "F."

The aggregate of unsold swamp lands (excluding 13 townships situated near Grand Traverse bay), according to the above statement, amounts to 1,249,114.73 acres, in which is included the unsurveyed portion of township 9 N, R. 1 W, estimated at 4,680 acres.

\*(CHARLES) NOBLE,

Surveyor General.

U. S. LAND OFFICE, IONIA, MICH., Feb. 12, '52.

In the foregoing list the descriptions marked "sold" were sold prior to September 28th, 1850. The descriptions sold since that date are marked, giving date of sale, and noting the kind of payment c. 10s.—or \$1.25 per acre, whether cash or warrants issued under acts of Feb. 11, 1847, or warrants issued under act of Sept. 28, 1850.

The descriptions marked "State," and heretofore selected by the State of Michigan under different laws of Congress.

I have been over with the list twice—have endeavored to be accurate, but have probably made some mistakes.

LOUIS S. LOVELL, Reg'r.

Hon. the sur. gen., Detroit, Mich.

\* Rec'd Ap'l 1st, 1852.

320 I certify that the foregoing list of swamp lands in the Grand River land district, Michigan has been made out in conformity with instructions from the Commissioner of the General Land Office, dated November 21, 1850, and his letter of December 12, 1850, and that the location of the said swamp lands is determined by the rule laid down in said instructions of November 21st. Surveyor general's office, Detroit, March 29, 1852.

CHARLES NOBLE,

*Surveyor General.*

And after like offer, objection, ruling, and exception, defendant's counsel read from a duly certified copy from the General Land Office

EXHIBIT 162.

*Swamp Lands.*

\* Approved Oct. 27, 1853.

No. 1.

A list of swamp and overflowed lands selected as inuring to the State of Michigan under the provisions of the act of Congress approved September 28th, 1850, in the district of lands subject to sale at Ionia, Michigan, viz:

Certified copies of within list transmitted to gov. & R. & R., Jan'y 13, 1854.

Gov. request for patents dated Jan'y 31, 1854.

Supplemental list No. 2 rec'd Nov. 3d, 1853, and all townships in this list embraced in same erased.

Approvals entered in tract books.

321

	Parts of sections.	Section.	Township.		Range.	Acres.	Hdthz
			N.	W.			
* Omit.	N E fr'l $\frac{1}{4}$ of N W fr. $\frac{1}{4}$ .	2	18	3	39.76	* Selections in this township suspended by supplemental list No. 3.	
	S $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	3	"	"	80		
	N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40		
	S W $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ ..	"	"	"	40		
	N W fr'l $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ .	4	"	"	39.06		
	S $\frac{1}{2}$ of N E fr'l $\frac{1}{4}$ .....	"	"	"	80		
	N W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40		
	N E fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .	"	"	"	38.95		
	N W fr'l $\frac{1}{4}$ of N W fr'l $\frac{1}{4}$ .	"	"	"	38.84		
	S $\frac{1}{2}$ of N W fr'l $\frac{1}{4}$ .....	"	"	"	80		
	N $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	"	"	"	80		
	S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40		
	N E fr'l $\frac{1}{4}$ of N E fr'l $\frac{1}{4}$ .	5	"	"	38.79		
	S $\frac{1}{2}$ of N E fr'l $\frac{1}{4}$ .....	"	"	"	80		

\* Small type and erasures in pencil in original copy.



Parts of sections.	Section.	Township.	Range.	Acres.	H'cts.
		N.	W.		
<del>S E <math>\frac{1}{4}</math> N W fr'l <math>\frac{1}{4}</math> . . . .</del>	<del>5</del>	<del>18</del>	<del>3</del>	<del>40</del>	
<del>S <math>\frac{1}{2}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>320</del>	
<del>S <math>\frac{1}{2}</math> of N E fr'l <math>\frac{1}{4}</math> . . . .</del>	<del>6</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>N E fr'l <math>\frac{1}{4}</math> of N W fr'l <math>\frac{1}{4}</math> . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>38.00</del>	
<del>S E <math>\frac{1}{4}</math> of N W fr'l <math>\frac{1}{4}</math> . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S E <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>160</del>	
<del>E <math>\frac{1}{2}</math> of S W fr'l <math>\frac{1}{4}</math> . . . .</del>	<del>7</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>E <math>\frac{1}{2}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>320</del>	
<del>Section . . . . .</del>	<del>8</del>	<del>"</del>	<del>"</del>	<del>640</del>	
<del>W <math>\frac{1}{2}</math> of N W <math>\frac{1}{4}</math> . . . . .</del>	<del>9</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>N E <math>\frac{1}{4}</math> of S W <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S W <math>\frac{1}{4}</math> of N W <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S W <math>\frac{1}{4}</math> of S E <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S E <math>\frac{1}{4}</math> of S W <math>\frac{1}{4}</math> . . . . .</del>	<del>10</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>E <math>\frac{1}{2}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>320</del>	
<del>S W <math>\frac{1}{4}</math> . . . . .</del>	<del>11</del>	<del>"</del>	<del>"</del>	<del>160</del>	
<del>W <math>\frac{1}{2}</math> of S E <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>N E <math>\frac{1}{4}</math> of S E <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S W <math>\frac{1}{4}</math> of N W <math>\frac{1}{4}</math> . . . .</del>	<del>12</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>E <math>\frac{1}{2}</math> of N W <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>N E <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>160</del>	
<del>N W <math>\frac{1}{4}</math> of N W <math>\frac{1}{4}</math> . . . .</del>	<del>14</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>N E <math>\frac{1}{4}</math> of N E <math>\frac{1}{4}</math> . . . . .</del>	<del>15</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>W <math>\frac{1}{2}</math> of N E <math>\frac{1}{4}</math> . . . . .</del>	<del>15</del>	<del>18</del>	<del>3</del>	<del>40</del>	
<del>N W <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>160</del>	
<del>N E <math>\frac{1}{4}</math> of S W <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>W <math>\frac{1}{2}</math> of S W <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>N W <math>\frac{1}{4}</math> of N E <math>\frac{1}{4}</math> . . . . .</del>	<del>17</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>N E <math>\frac{1}{4}</math> of N W <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>W <math>\frac{1}{2}</math> of N W <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>E <math>\frac{1}{2}</math> of N E <math>\frac{1}{4}</math> . . . . .</del>	<del>18</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>N W <math>\frac{1}{4}</math> of N E <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>N E <math>\frac{1}{4}</math> of N W fr'l <math>\frac{1}{4}</math> . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S W fr. <math>\frac{1}{4}</math> of N W fr. <math>\frac{1}{4}</math> . .</del>	<del>19</del>	<del>"</del>	<del>"</del>	<del>47.23</del>	
<del>N W fr'l <math>\frac{1}{4}</math> of S W fr'l <math>\frac{1}{4}</math> .</del>	<del>19</del>	<del>"</del>	<del>"</del>	<del>47.28</del>	
<del>S E <math>\frac{1}{4}</math> of S W fr. <math>\frac{1}{4}</math> . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S <math>\frac{1}{2}</math> of S E <math>\frac{1}{4}</math> . . . . .</del>	<del>20</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>E <math>\frac{1}{2}</math> of N W <math>\frac{1}{4}</math> . . . . .</del>	<del>21</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>W <math>\frac{1}{2}</math> of N E <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80</del>	
<del>N E <math>\frac{1}{4}</math> of N E <math>\frac{1}{4}</math> . . . . .</del>	<del>21</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S W <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>60</del>	
<del>N W <math>\frac{1}{4}</math> of S E <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S E <math>\frac{1}{4}</math> of S E <math>\frac{1}{4}</math> . . . . .</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>	
<del>S E <math>\frac{1}{4}</math> of N W <math>\frac{1}{4}</math> . . . . .</del>	<del>22</del>	<del>"</del>	<del>"</del>	<del>40</del>	

Parts of sections.	Section.	Township.		Range.	Acres.	Hdths.
		N.	W.			
<del>N E <math>\frac{1}{4}</math>.....</del>	<del>22</del>	<del>18</del>	<del>3</del>	<del>160</del>		
<del>S <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>320</del>		
<del>N E <math>\frac{1}{4}</math> of N E <math>\frac{1}{4}</math>... ..</del>	<del>28</del>	<del>"</del>	<del>"</del>	<del>40</del>		
<del>W <math>\frac{1}{2}</math> of N E <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80</del>		
<del>N W <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>160</del>		
<del>N <math>\frac{1}{2}</math>.....</del>	<del>29</del>	<del>"</del>	<del>"</del>	<del>320</del>		
<del>N E <math>\frac{1}{4}</math>.....</del>	<del>30</del>	<del>"</del>	<del>"</del>	<del>160</del>		
<del>N E <math>\frac{1}{4}</math> of N W <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>40</del>		
<del>N W fr <math>\frac{1}{4}</math> of N W fr <math>\frac{1}{4}</math> ..</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>47.41</del>		
<del>N <math>\frac{1}{2}</math> of N E <math>\frac{1}{4}</math>.....</del>	<del>35</del>	<del>"</del>	<del>"</del>	<del>80</del>		
<del>S W <math>\frac{1}{4}</math> of N W <math>\frac{1}{4}</math>....</del>	<del>36</del>	<del>"</del>	<del>"</del>	<del>40</del>		
<del>E <math>\frac{1}{4}</math> of N W <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>80</del>		
<del>N E <math>\frac{1}{4}</math>.....</del>	<del>"</del>	<del>"</del>	<del>"</del>	<del>160</del>		
* * *	*	*	*	*	*	*
323 N W fr $\frac{1}{4}$ of N W fr $\frac{1}{4}$ ..	1	18	4	34.66	<i>Pat. No. 2.</i>	
S E $\frac{1}{4}$ of N E fr $\frac{1}{4}$ ..	2	"	"	40	<i>Do.</i>	
N W fr $\frac{1}{4}$ of N E fr $\frac{1}{4}$ ..	"	"	"	34.59	<i>Do.</i>	
N W fr $\frac{1}{4}$ of N W fr $\frac{1}{4}$ ..	"	"	"	35.99	<i>Do.</i>	
E $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	11	"	"	80	<i>Do.</i>	
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40	<i>Do.</i>	
W $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	17	"	"	80	<i>Do.</i>	
W $\frac{1}{2}$ of S W $\frac{1}{4}$ .....	20	"	"	80	<i>Do.</i>	
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	25	"	"	80	<i>Do.</i>	
N $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	27	"	"	80	<i>Do.</i>	
S W $\frac{1}{4}$ of N E $\frac{1}{4}$ ..	"	"	"	40	<i>Do.</i>	
S E $\frac{1}{4}$ of N W $\frac{1}{4}$ .....	"	"	"	40	<i>Do.</i>	
N E $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40	<i>Do.</i>	
S W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40	<i>Do.</i>	
S $\frac{1}{2}$ of N E $\frac{1}{4}$ .....	29	"	"	80	<i>Do.</i>	
N W $\frac{1}{4}$ .....	"	"	"	160	<i>Do.</i>	
S $\frac{1}{2}$ .....	"	"	"	320	<i>Do.</i>	
S E $\frac{1}{4}$ of N E $\frac{1}{4}$ ..	30	"	"	40	<i>Do.</i>	
E $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	"	"	"	80	<i>Do.</i>	
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40	<i>Do.</i>	
E $\frac{1}{2}$ .....	31	"	"	320	<i>Do.</i>	
N $\frac{1}{2}$ .....	32	"	"	320	<i>Do.</i>	
N W $\frac{1}{4}$ of S W fr $\frac{1}{4}$ ..	"	"	"	40	<i>Do.</i>	
Lot No. 2 .....	"	"	"	34.80	<i>Do.</i>	
Lot No. 1 .....	"	"	"	47.34	<i>Do.</i>	
N $\frac{1}{2}$ of S E $\frac{1}{4}$ .....	"	"	"	80	<i>Do.</i>	
S W $\frac{1}{4}$ of S E $\frac{1}{4}$ .....	"	"	"	40	<i>Do.</i>	
N $\frac{1}{2}$ .....	33	"	"	320	<i>Do.</i>	
N W $\frac{1}{4}$ of S W $\frac{1}{4}$ .....	"	"	"	40	<i>Do.</i>	

Erisures in pencil in original.  
Italics in red ink in original.

324

Parts of sections.	Section.	Township.	Range.	Acres.	Hdths.
	N.	W.			
F. NW fr'l $\frac{1}{4}$ of NW fr'l $\frac{1}{4}$	2	27	4	36.24	
SW $\frac{1}{4}$ of NW fr'l $\frac{1}{4}$	"	"	"	40.00	
SW $\frac{1}{4}$	"	"	"	160.00	
SW fr'l $\frac{1}{4}$ of NW fr'l $\frac{1}{4}$	7	"	"	36.93	
NW fr'l $\frac{1}{4}$ of SW fr'l $\frac{1}{4}$	"	"	"	37.16	
E $\frac{1}{2}$ of SW fr'l $\frac{1}{4}$	"	"	"	80.00	
SW $\frac{1}{4}$ of SE $\frac{1}{4}$	"	"	"	40.00	
W $\frac{1}{2}$	11	"	"	320	
W $\frac{1}{2}$ of NE $\frac{1}{4}$	"	"	"	80	
W $\frac{1}{2}$ of SE $\frac{1}{4}$	"	"	"	80	
W $\frac{1}{2}$ of NE $\frac{1}{4}$	14	"	"	80	
W $\frac{1}{2}$ of SE $\frac{1}{4}$	"	"	"	80	
W $\frac{1}{2}$	"	"	"	320	
NE $\frac{1}{4}$ of NE $\frac{1}{4}$	15	"	"	40	
W $\frac{1}{2}$ of SW $\frac{1}{4}$	17	"	"	80	
E $\frac{1}{2}$	18	"	"	320	
E $\frac{1}{2}$ of NW fr'l $\frac{1}{4}$	"	"	"	80	
NE $\frac{1}{4}$ of SW fr'l $\frac{1}{4}$	"	"	"	40	
NW $\frac{1}{4}$ of NE $\frac{1}{4}$	19	"	"	40	
E $\frac{1}{2}$ of NE $\frac{1}{4}$	"	"	"	80	
NE $\frac{1}{4}$ of SE $\frac{1}{4}$	"	"	"	40	
W $\frac{1}{2}$ of NW $\frac{1}{4}$	20	"	"	80	
NW $\frac{1}{4}$ of NW $\frac{1}{4}$	23	"	"	40	
E $\frac{1}{2}$ of NW $\frac{1}{4}$	"	"	"	80	
W $\frac{1}{2}$ of NE $\frac{1}{4}$	"	"	"	80	
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	"	"	"	40	
SE $\frac{1}{4}$	"	"	"	160	
NE $\frac{1}{4}$ of NE $\frac{1}{4}$	26	"	"	40	
NE $\frac{1}{4}$ of SE fr'l $\frac{1}{4}$	32	"	"	40	
Lot No. 2	"	"	"	34.64	

Cheboygan not yet patented.  
March 7, 57. L. D. Ry.

*This township  
embraced in supple-  
mental list No. 2.*

*Italics and erasure in red ink in original.  
Small type in pencil in original.*

325

GENERAL LAND OFFICE, *October 27th, 1853.*

Respectfully submitted for approval.

JOHN WILSON,  
*Commissioner.*

DEPARTMENT OF THE INTERIOR, *October 27, 1853.*

The lands embraced in the foregoing list are hereby approved to the State of Michigan under the act of Congress app'd 28th September, 1850, subject to any valid legal claim that may exist thereto.

R. McCLELLAND, *Secretary.*

Defendants' counsel then re-read in evidence the patents from the United States to the parties through whom defendants claim title.

EDWARD W. SPARROW, after being duly sworn on behalf of the defendants, testified as follows:

I reside in Lansing; have lived there 30 years. My business is, the greater part, real estate. My office in Lansing is on Michigan avenue near to the Capitol building—the next block to it. My office has been there during the last five or six years; prior to that time it was farther east on the same street, in the next block, and had been there for some time—probably six years. I am one of the managers of The Michigan Land & Lumber Co., the plaintiff. I am also a member of the Michigan Land & Lumber Co., Limited. The same Mr. Sparrow that made conveyance to the Michigan Land & Lumber Co. of the land in this case, and against whom the State of Michigan filed a bill concerning the lands in question that was carried to the supreme court and reported in the records of the supreme court of this State. I procured my title to these lands through the performance of certain contracts with Livingston county and Clinton and Shiawassee counties, made under acts of the State of

326 Michigan, one in 1883 and the other in 1885. I became entitled to swamp lands as the assignee of these counties. I can't remember the numbers of the acts or the title. One had reference to the improvement of Cedar river and the other of Looking-glass river. Under those acts I selected the lands that I would take when they had been earned by the performance of the contract.

Q. Were they selected in advance of the performance?

MR. CHAMPLIN: I don't see the object of this testimony. It is objected to as irrelevant.

THE COURT: I will admit the question and answer. Exception for the plaintiff.

By Judge CHAMPLIN: Were those selections made in writing?

A. Yes, sir.

MR. CHAMPLIN: Then I will object to it farther as not the best evidence.

Question read as follows: "Were they selected in advance of the performance?"

A. No, sir.

Q. When did you complete the performance of the contract under which you obtained the title to those lands now?

Objected to as irrelevant. Objection overruled. Exception for plaintiff.

A. I would like to see the patent to see under what act I obtained it. (Referring to paper) I think in 1886.

Q. How early did you reserve these lands?

A. I didn't reserve any lands. I made my selection in August, I think, 1887, by filing an application with the State land commissioner for the lands, in writing, designating those lands among

others. I got my patent (referring to paper) October 13, 1887. I made the selection myself. I was not present when the patents were filled out.

Q. Do you not know that the patents were signed in blank, and left in the hands of the secretary of state?

Objected to as irrelevant and immaterial. Overruled. Exception for the plaintiff.

327 A. I do not. I don't know as I remember any particular part of the answer in the case referred to. I remember of having signed and sworn to the answer in that case. I did not understand it at the time that the patents which I received had been signed in blank by the governor and left to the secretary of state. I was not present when the patents were filled out. I did not know what the fact was as to whether they had been signed in blank by the governor. I don't remember having testified upon that subject.

Cross-examination:

In the suit referred to by the counsel for the defendants, a decree was obtained in my favor dismissing the bill of complaint.

WILLIAM L. WEBBER, sworn on behalf of the defendants, testified:

I am a resident of Saginaw, and have been connected with the Flint & Pere Marquette railroad for a number of years last past, and during 1869 I was acting as attorney for the Flint & Pere Marquette railway. I commenced my duties as land commissioner the next year, 1870.

Q. Were you present at the public sale that occurred in November, 1869, in the Ionia office, of large quantities of lands that had been entered by Burt and others, and the entries of which had been canceled and the lands put up at public sale?

A. I was present at the United States land office at Ionia at the time you speak, when lands were sold at public sale, lands 18, 19 N, 3 W. I don't recollect who the claimants were.

Q. What was the occasion of your being present?

Mr. CHAMPLIN: I object to this testimony.

Mr. HANCHETT: The object is to show that the State made no objection or protest to the sale.

Objection overruled. Exception for plaintiff.

A. I was there as attorney for the Flint & Pere Marquette Railroad Company to protest against the sale and make claim for the certain odd-numbered descriptions that were offered for sale.

328 Q. Now, at that sale, was there any notice given in behalf of the State of Michigan, or any protest made to the sale on the part of the State of Michigan?

Mr. CHAMPLIN: I object to that question as irrelevant, and not proper foundation laid for it.

COURT: Was the State represented there?

MR. STARK: I presume it wasn't. I don't know whether it was or not.

Objection overruled. Exception for the plaintiff.

A. None to my knowledge.

Q. I understand you were present at the time the lands were being offered and bid upon?

A. Yes, sir.

CHARLES A. RUST, sworn on behalf of the defendants, testified:

I am one of the defendants in this suit. Amasa Rust is my father. John F. and David W. were my uncles, and George Rust my cousin. At the time myself and Amasa Rust purchased an interest in these lands, we acted in the matter personally. We purchased these lands in question in connection with other lands, a large body. We purchased an undivided interest at a gross sum for the land. I think it was one hundred thousand dollars.

Q. In the purchase of these lands what title did you understand you were obtaining?

A. We supposed we were getting a good title.

Objected to as immaterial and incompetent.

MR. STARK: We will waive the answer until you can get a ruling.

COURT: I think I will admit it as a tendency to show good faith in the purchase.

Exception for the plaintiff.

I had no knowledge at that time of any adverse claim by  
329 the State of Michigan, or by any other person or source to these lands.

Q. Are you the C. A. Rust mentioned in this conveyance?

A. Yes, sir.

MR. STARK: I offer in evidence a conveyance from the State of Michigan to the auditor general to C. A. Rust of all the lands in controversy in this case, dated July 30, 1892, and for the taxes for the year 1888 at a sale made May 4th, 1891.

MR. CHAMPLIN: We object to the introduction of that deed in evidence, on the ground that it is irrelevant to the issue, and it is incompetent, and not admissible under the plea of defendants.

Overruled. Exception for the plaintiffs.

Marked "Defendants' Exhibit 163."

Cross-examination:

Q. You stated you had no knowledge of any defect in the title. Had you examined the records in the land office at Lansing?

A. No, sir.

Q. Then you mean to say you had no actual knowledge—no one had informed you of the fact?

A. No, sir. In reference to this tax deed that has been offered

in evidence, the deed contains a large number of descriptions of land. I became the purchaser in 1881 of these lands—that is, the original purchase was then. I could not say whether these lands were assessed to our folks on the tax-roll for the year 1888. I can't say because I don't know.

Q. Didn't you see the assessment-roll that year? Didn't the collector come around and ask for this land? Was it assessed to you the year before?

A. I could not say that.

Q. Has it been assessed to you at all?

A. I think it has, to our firm.

Q. You bought this in the interest of your firm, didn't you?

A. Yes, sir.

330 Q. Who pays the taxes on this property?

A. I do.

Q. Did you pay the taxes on any other land assessed to your firm in that county?

A. Yes, sir.

Q. Did you in that township?

A. I think so, yes, sir. I didn't tell the treasurer to return this land in 1888 or 1889. I don't know whether I did or not.

## EXHIBIT 163.

6S18.

Certificate No. 32-34-37, section 67, act No. 195, 1889. 39-40-41.

*Deed.*

*This indenture, made the thirtieth day of July, in the year of our Lord one thousand eight hundred and ninety-two, between George W. Stone, auditor general of the State of Michigan, of the first part, and C. A. Rust, of Saginaw, E. S., of the second part, witnesseth,*

*That whereas, at a sale made by the treasurer of the county of Clare, in said State of Michigan, at the county-seat thereof, in accordance with the provisions of law, of lands situated in said county, which were returned to the office of said auditor general for delinquent taxes for the year 1888, and which taxes, with the interest and charges thereon, remain unpaid, the said party of the second part did become the purchaser at such sale on the fourth day of May, A. D. 1891, of the following-described lands, situated in said county of Clare, to wit:*

Southeast quarter of southeast quarter of section twenty, containing forty acres more or less; and northwest quarter of southwest quarter of section twenty-one, containing forty acres more or less; and northwest quarter of southeast quarter of section twenty-two, containing forty acres more or less; and northwest quarter of northwest quarter of section twenty-eight, containing forty acres more or less; and north half of southwest quarter of section twenty-nine, containing eighty acres more or less; and north half of northeast quarter of section thirty-five, containing eighty acres more or less; all in town eighteen north, range three west.

31-331

*And whereas*, the said party of the second part has paid the amount of the purchase-money for the same, to wit, the sum of three hundred and fifty dollars and twenty-four cents, to the treasurer of said county, and obtained his certificates of said purchase according to law; *and whereas*, the said party of the second part has presented and surrendered to the said auditor general the certificates of purchase aforesaid;

*Now, therefore, this indenture witnesseth*, that the said Geo. W. Stone, auditor general of the said State of Michigan, in the name of the people of said State and by virtue of the authority vested in him by the laws thereof, in consideration of the premises and of the sum aforesaid paid by the said party of the second part as above mentioned, the receipt whereof is hereby confessed, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns forever, the premises above described, with all and singular the rights, privileges, hereditaments and appurtenances to the same belonging or in anywise appertaining.

To have and to hold the same unto the said party of the second part, his heirs and assigns forever: *Provided*, however, that the title hereby conveyed is subject to all taxes assessed and levied on the above-described premises, subsequent to the taxes for which said premises were sold as aforesaid.

*In testimony whereof*, the said Geo. W. Stone, auditor general as aforesaid, has hereunto set his hand and seal the day and year first above written.

GEO. W. STONE, [L. s.]

*Auditor General of the State of Michigan.*

332 WILLIAM L. WEBBER, recalled for further cross-examination:

The sales that I spoke of were made at the register's office at Ionia, as I remember. I really can't tell you exactly, but I should say that was some thirty-odd miles, perhaps, from the capital of Michigan. I have traveled over it a good many times, but I don't know as I ever took note of the distance. I should think between thirty and forty miles.

Redirect examination:

Q. As a matter of fact, didn't that sale of the quantity of land, and the proceedings that were taken in relation to it attract a good deal of public attention through the State?

Objected to as irrelevant and immaterial Overruled. Exception for the plaintiffs.

A. It did throughout our section of the State and throughout other sections of the State where they were interested in the lands, so far as I know.



## Recross-examination :

Q. How far do you know ?

A. I know there were a good many there from Detroit, a good many from Lansing and Saginaw, men from Grand Rapids, and perhaps from Big Rapids.

CHARLES A. RUST, recalled for the defendants, testified :

Q. I omitted to ask a question on direct. State whether or not in 1888 these lands in question were wild and unoccupied.

A. Yes, sir. Have always been so, and remain so yet.

Defendants rest.

Plaintiff's counsel then moved the court to strike out and reject all the documentary evidence introduced on the part and behalf of the defendants relating to fraudulent and defective and erroneous surveys of the townships of Michigan prior to act of Congress Sept. 25th, 1850, for the reason that such evidence is irrelevant and immaterial to the issue in this suit.

COURT: I will deny that motion, and give you an exception.

He also moved to strike out and reject the documentary evidence introduced on the part of the defendant relative to resurveys in Michigan after the 28th of September, 1850, for the reason that such evidence is irrelevant and immaterial to the issue in this suit.

COURT: I will deny that motion, and give you an exception.

He also moved to strike out and reject all the documentary evidence introduced by the defendants relative to the resurveys in Michigan after the approval of the swamp-land list by the Secretary of the Interior, and the transmission of such list and plat to the governor of the State of Michigan, called Ionia list No. 1, for the reason that such evidence is immaterial and irrelevant to the issue.

COURT: I will deny that motion, and give you an exception.

He also moved to strike out and reject supplemental list of swamp lands made by the surveyor general, filed in the office of the Commissioner of the General Land Office at Washington, dated May 12th, 1858, and the map of the resurvey filed in the office of the register and receiver June 3d, 1858, for the reason that such evidence is irrelevant and immaterial to the issue.

COURT: I will also deny that, and give you an exception.

334 And thereupon the plaintiff, to further maintain the issue on its part, and in rebuttal, read from the reports of the Commissioner of the General Land Office for the years 1855 to 1891 inclusive, certain tabulated statements, showing the amount of lands selected, approved and patented to the State of Michigan ending in

each year, under the act of Congress approved September 28, 1850 which for convenience is tabulated as

## EXHIBIT 165.

	Selected.	Approved.	Patented.
Report for 1855.....	7,273,724.72	5,465,232.41	2,013,080.9
Report for 1856.....	7,273,724.72	5,465,232.41	4,455,053.2
Report for 1857.....	7,273,724.72	5,465,232.41	4,985,588.4
Report for 1858.....	7,273,724.72	5,465,232.41	4,985,588.4
Report for 1859.....	7,273,724.72	5,465,232.41	5,059,041.5
Report for 1860.....	7,273,724.72	5,465,232.41	5,059,041.5
Report for 1861.....	7,273,724.72	5,465,542.74	5,059,041.5
Report for 1862.....	7,273,724.72	5,465,765.34	5,311,807.3
Report for 1863.....	7,273,724.72	5,482,832.40	5,592,901.5
Report for 1864.....	7,273,724.72	4,482,832.40	5,592,901.5
Report for 1865.....	7,273,724.72	5,554,164.80	5,660,315.7
Report for 1866.....	7,273,724.72	5,691,518.66	5,685,741.4
Report for 1867... ..	7,273,724.72	5,691,518.66	5,816,964.8
Report for 1868.....	7,273,724.72	5,691,598.66	5,817,084.8
Report for 1869.....	7,273,724.72	5,691,758.66	5,817,804.8
Report for 1870... ..	7,273,724.72	5,691,878.66	5,836,788.8
Report for 1871.....	7,273,724.72	5,691,958.66	5,836,948.8
Report for 1872.....	7,273,724.72	5,693,506.53	5,837,068.8
Report for 1873.....	7,273,724.72	5,693,506.53	5,838,616.6
Report for 1874.....	7,273,724.72	5,713,370.14	5,838,775.8
Report for 1875.....	7,273,724.72	5,714,805.38	5,838,775.8
Report for 1876.....	7,273,724.72	5,720,280.22	5,864,669.5
Report for 1877.....	7,273,724.72	5,720,356.63	5,657,697.19
Report for 1878.....	7,273,724.72	5,720,996.63	5,657,817.19
Report for 1879.....	7,273,724.72	5,720,996.63	5,657,817.19
Report for 1880.....	7,273,804.72	5,721,116.63	5,659,217.14
Report for 1881.....	7,273,844.72	5,721,894.73	5,659,377.14
Report for 1882.....	7,273,844.72	5,722,174.73	5,659,817.99
335			
Report for 1883.....	7,273,844.72	5,722,333.68	5,660,995.04
Report for 1884.....	7,273,844.72	5,722,373.68	5,660,995.04
Report for 1885.....	7,287,863.82	5,727,384.93	5,665,886.66
Report for 1886... ..	7,293,159.28	5,728,585.65	5,665,886.66
Report for 1887.....	7,293,159.28	5,728,842.91	5,667,647.38
Report for 1888.....	7,293,159.28	5,728,922.91	5,667,304.64
Report for 1889.....	7,293,159.28	5,728,922.91	5,667,304.64
Report for 1890.....	7,293,159.28	5,728,922.91	5,667,304.64
Report for 1891.....	7,293,159.28	5,729,335.50	5,668,224.01

Plaintiff's counsel then read from the reports of the Commissioner of the General Land Office and Secretary of the Interior for 1877, 1878, and 1882, as

EXHIBIT 166.

Com. G. L. O.,

Page 12, 1877:

The act of September 20, 1850, has been held by the Supreme Court to have been a present grant. The act provides that it shall be the duty of the Secretary of the Interior to make accurate lists and plats of the same, and transmit them to the governors of States, and at their request to issue patents therefor.

The provisions of the law have not been fully carried out, nor have the grants to the several States been adjusted. Lapse of time makes the adjustment more difficult. Many States are demanding their rights under the act, and, at the present rate of settlement, years must elapse before the swamp and indemnity lands can be ascertained.

Com. G. L. O.,

Page 26, 1878:

Survey of townships 18 and 19 north, range 1 west, Michigan.

Under authority of act of Congress approved February 16, 1877 (19 Stat., p. 231), townships 18 and 19 north, of range 1 west, 336 Michigan, were surveyed by T. Gale Merrill, under contract dated March 31, 1877, entered into with this office, there being no surveyor general in Michigan, and returns thereof were made July 17, 1877, and being found correct, were approved August 3, 1877.

In many cases the corners of the original survey, formerly reported as fraudulent, were found, and under instructions from this office the surveyor adopted such corners where found in their proper places.

The expense of the survey was \$2,136.22, which was paid from the appropriation of \$2,500 made for the purpose by said act of February 16, 1877.

Com. G. L. O.,

Page 9, 1882:

*Swamp Lands.*

The unadjusted claims now pending amount to 14,000,000 acres, and there is no diminution in the number of claims annually filed.

The progress of settlement in the public-land States, and the rapid absorption of the public lands of the United States, have led to increased attention by investors and settlers to lands claimed under the swamp-land grant, resulting in a pressing demand upon this office for the more rapid adjustment of these claims.

The work of the division charged with this service is several years in arrears.

337 And then read from the reports of the commissioner of State land office for the years 1853, 1854, 1871, 1876, 1882, 1886, as

EXHIBIT 167.

*Report for the Year Ending November 30th, 1853.*

Porter Kibbee, commissioner.

Page 6 :

"Swamp lands. We have received lists and diagrams of these lands for the Detroit and Kalamazoo districts, amounting to 414,434.24 acres.

"The lists were received about four months since, and believing it a favorable time to offer them I have given notice of the sale, a part of which are to be offered at Port Huron and the balance at this office.

"Act No. 187, of 1851, provides that 'the commissioner of the State land office shall have the control and supervision of said lands, and of the sale thereof, and shall, as soon as the title vests in the State, cause the same to be sold at public auction at such times and in such quantities as he may think proper.'"

*Report for the Year Ending November 30th, 1854.*

Porter Kibbee, commissioner.

Page 6 :

"Swamp lands. We have received lists of these amounting to 5,879,811.21 acres. There have been sold during the year 142,933.09 acres."

He then refers to his last annual report, and to the act 187, 1851, and says :

"The question was suggested whether, on receiving lists and diagrams, the title had become vested in the State. The first section of the act of Congress of the 28th of September, 1850 (vol. 9, U. S. Stat. at Large, 518) declared that 'the whole of those swamp and overflowed lands, made unfit thereby for cultivation, which  
338 shall remain unsold at the passage of this act, shall be, and the same are hereby, granted to said State.' The second section required the Secretary of the Interior to make out an accurate list and plats of the lands and to transmit them to the governor, and at the request of the governor to cause a patent to be issued, and on that patent the title should vest in the State, subject to the disposal of the legislature thereof. Upon this subject and other incidental questions the opinion of the attorney general was desired, and upon repeated occasions an interview with him was sought, at much personal inconvenience, but without success. Failing to obtain an interview with him, and to get his advice, owing probably to his absence from the State, I consulted the governor and the other State officers, and able attorneys in the State, and particularly the ex-attorney general, and I received from them, without exception,

the unanimous opinion that, by the terms of the first section of the act of Congress, the title had become completely vested in the State, and that upon obtaining the lists and plats, so as to know the particular description of the lands which the department at Washington had selected under the act, it was the duty of the commissioner to proceed and to name a time and determine the quantity that should be offered for sale, and to hold the sale at the earliest reasonable and convenient opportunity. This was understood to be the construction put upon it by the department at Washington, and this view was corroborated by the construction put upon the act by the State of Mississippi, as well as other of the Southern land States which were made, with this State, the recipients of the act. I therefore proceeded to offer the lands for sale in those two land districts in the month of December of last year."

Doc. No. 7,

Pages 8 & 9, 1854.

I was restrained from proceeding to sell the lands by an injunction issued upon the order of the Hon. S. T. Douglass, judge of the circuit court for the county of Wayne, upon an information  
339 filed on the day previous (the 17th of July) by the Hon. Wm. Hale, attorney general, and the sales were postponed to the 12th day of September.

The principal ground assumed in the information by the attorney general was, that patents for these lands, which were to be offered for sale, had not been issued at the time of giving the notice, and that patents for all of them had not been issued pursuant to the act of Congress at the time of filing the information, and that, until the patents issued, no title vested in the State. This question was deemed of sufficient importance to the people of the State to justify the expense of obtaining the deliberate judicial opinion of the distinguished judge who granted the order for an injunction.

A motion was therefore made upon the answer of the defendant to dissolve the injunction. It was not considered necessary to make a critical examination of the patents to ascertain, by reference to the particular descriptions, whether the patents received by the governor actually embraced every parcel of the land offered for sale or not; and it was supposed that it would suffice to raise the question, to make the general statement in answer to the allegations contained in the information, that the commissioner, so far as he was able to say from information and belief, believed that patents for most, if not all, of the lands were duly received prior to the day fixed for the sale. Upon full argument and deliberate consideration, the court sustained the construction put upon the act of Congress by the attorney general, and held that the commissioner had no authority to sell any of the lands except those for which the patents had been issued previous to the giving the notice for the sale of them; and that those lands, if any, for which the patents had been received subsequent to the giving of the notice of sale, could not be sold without proceeding to advertise anew.

340 *Report for the Year Ending September 30th, 1871.*

Charles A. Edmonds, commissioner.

Pages 8 and 9 and *post*, discusses swamp lands. Says on page 8: "The whole amount of land patented to the State under this grant has been variously reported at different times. The report from this office for the 1868 gave the amount patented as 5,851,984.57 acres, showing a discrepancy in the two reports of 57,675.97 acres; and the last annual report of the Commissioner of the General Land Office gives the total patented to the State as 5,836,788.82 acres, including indemnity lands to the amount of 18,823.93 acres."

Page 14 speaks of sundry irregularities in the office upon taking possession Jan. 3d, 1871, and says, among other things:

"I have in course of preparation a complete abstract of all the swamp lands contained in the original grant to the State, compiled by townships, and showing at a glance the whole history of each description of land."

*Report for 1876.*

L. A. Clapp, commissioner.

Pages 7 and 8 discusses the adjustment of the swamp-land grant, and refers to the report of the Commissioner of the G. L. O. for the fiscal year ending June 30, 1875, in which it is said the following facts appear:

"Acres of swamp land selected for the State under the grant.....	7,273,724.72
"Acres of swamp land patented to the State under the grant.....	5,838,775.86

"A subsequent act of Congress was approved March 3, 1857, providing that in cases where the United States had sold said swamp lands for cash, that the purchase-money should be paid over to the State, and that when it made sales on land-warrant locations or scrip, that the State should be authorized to locate a like amount as indemnity therefor. From an investigation recently made, I find that a large quantity of our swamp land has been disposed of by the General Government, and that thus far indemnity land amounting to but 18,823.93 acres has been obtained by the State on account of land-warrant locations, and not a dollar has been received by the State on account of cash sales. I am convinced that a large amount in cash and indemnity land is now due to the State, and respectfully recommend that the legislature provide by proper enactment for a complete adjustment of said swamp-land grant."

*Report for 1882.*

James M. Neasmith, commissioner.

Page 7 says:

"The lists of swamp lands claimed by the State, but which have never been patented to the State, have been completed, and the work of adjusting the grant is well under way. It already appears that there is a large amount justly due the State, both in lands and in money. The matter should be pressed to a settlement, and I trust the coming year will show great progress in that direction."

Page 8:

"The work of the Commissioner of Immigration, in directing the attention of people of other States to the advantages of the State of Michigan, has added very materially to the business of this department. Many sales to settlers who had first learned of the lands of this State from the valuable pamphlet, "Michigan and its Resources," have come to my personal knowledge. The inquiries for State land have been largely increased by its circulation, and in our correspondence its influence has been plainly seen and felt."

342 Com. S. L. O.  
Page 8, 1882:

*Abstracts of State Lands.*

In the year 1872 the work of preparing books of abstracts of State land was entered upon, and continued to the time of the commencing of my administration. Much time and money was expended on this work, but I found it to be of no value, as the source of the title of the State had not been noted, and only a portion of the lands of the State were entered upon these books. The work was therefore of no use, and was abandoned. The work has been resumed, but a different system has been adopted. Complete lists of all lands at any time owned by the State have been prepared, and from these lists new abstracts have been prepared, which will show a complete history of all transactions concerning the State lands up to the time they are finally disposed of by the State. One clerk has been detailed for this work, and it has occupied his time during my entire term of office.

*Report for 1886.*

Minor S. Newell, commissioner.

Page 6:

"The State has received from the General Land Office \$7403.37 in cash, and certificates entitling the State to 1000 acres of land, being the first installment paid the State for land sold by the Government since the passage of the 1878 land act."

"Lists covering the greater part of the land in the aggregate over 1,000,000 acres in the State, and a vigorous prosecution will result in its speedy sale."

250 THE MICHIGAN LAND AND LUMBER CO., LIMITED, VS.

343 Plaintiff's counsel then read from the messages of Governors Jerome and Alger to the legislature of Michigan as

EXHIBIT 168.

JOINT DOCUMENTS.

Vol. 1, 1882, page 12.

SPECIAL MESSAGE

OF

DAVID H. JEROME,

Governor of the State of Michigan,

TO THE

LEGISLATURE,

In Extra Session, February 23, 1882.

*Unpatented Swamp Lands.*

In the list of swamp lands granted to the State by the United States there were 1,714,587 acres in excess of the amount subsequently patented. The commissioner of the State land office has caused lists of these unpatented lands to be prepared for use in settling with the Government. Arrangements are partly perfected to adjust this claim on behalf of the State. It is expected that the Government will convey to the State what lands it still has applicable to the grants, and settle for the deficiency found to be due in money.

The preparation of these lists covered four years of continuous labor, and success in securing the rights claimed will depend upon the fidelity and energy with which the work is prosecuted at Washington. Reference is made to the report of the commissioner.

344

JOINT DOCUMENTS.

Vol. I, 1886, page 15.

MESSAGE

OF

RUSSELL A. ALGER,

Retiring Governor,

TO THE

MICHIGAN LEGISLATURE,

January 6, 1887.

*Swamp-land Indemnity.*

By act of Congress approved September 28, 1850, all the swamp and overflowed land- within the State were granted to the State.



The grant was accepted, and the plats and field-notes of the Government surveys were accepted as the basis for the adjustment of the grant. Under this arrangement 7,373,804.72 acres were reported by the Secretary of the Interior as coming within the grant, but of this amount only 5,659,217.14 acres have been patented to the State, leaving a balance due the State of 1,714,587.68.

Through errors in the local offices, or by design, the greater part of this deficiency has been disposed of by the Government. The claim for the deficiency has been prepared by the State land department and presented to the Interior Department. It has in effect been allowed, and the first installment of indemnity for the lands sold received and covered into the treasury. Some portion of the claim will no doubt be rejected, but it can be reasonably expected that the State will receive indemnity for the greater part of it. It is reasonable to hope that the State will receive several hundred thousand dollars from this source. This is the result of vigorous work of the land department of this State of late.

345 And then read

#### EXHIBIT 169.

DETROIT, MICHIGAN, *September 2d, 1856.*

Leander Chapman, Esq., sur. gen'l, Detroit, Michigan.

SIR: By letter of the 25th ulto. from the General Land Office, you are advised of the appropriation of \$9,750 for the resurveying and correcting of erroneous surveys in the lower peninsula of Michigan at a rate not exceeding \$6 per mile.

This appropriation is applicable to the resurveys & corrections of the following townships and parts of townships referred to in your estimate N, page 60 of last annual report, and in statement 1, page 7, of that report, viz., townships 28, 29 & 30 N, of range- 1 to 6 W, both inclusive, townships 31 & 32 N, of ranges 6 to 9 W do.

You are requested to contract immediately for the resurvey & corrections of these townships, but *of course only to the extent found fraudulent and erroneous.* In placing this work in the hands of competent and skillful deputies, you will divide it among such a number that returns of the surveys shall be made without fail on or before the 31st December next, and you will make that an absolute condition in the contracts, with a full understanding that its fulfillment will be insisted upon under a liability of forfeiture both of contract and claim to compensation. The purpose in view is to have the work thoroughly, correctly and promptly done, and so as to have the matter of resurveys closed before the expiration of the calendar year.

In regard to field-work already contracted for under former appropriations, and for which the deputies have not yet reported, you will be pleased to require, by a special call on them, to make their returns during the present fall in the shortest time possible consistent with the correct executions of their contracts not only for

the resurveys, but for the original field-work in the survey ordered of interior islands.

Respectfully, &c., &c.,

JOSEPH S. WILSON,  
*Of the General Land Office.*

346 And

EXHIBIT 170.

SURVEYOR GENERAL'S OFFICE, DETROIT, Dec. 9, 1856.

SIR: Acting in accordance with your instructions of the 2nd of September last, I contracted to A. P. Brewer, Ts. 30 N, in Rs. 1, 2, 3 & 4 W; to Harvey Mellen, T. 29 N, Rs. 1, 2, 3 & 4 W; to Walter Warner, Ts. 28 N, Rs. 1, 2, 3 & 4 W; to Geo. H. Cannon, Ts. 18 N, Rs. 2, 3, 4 & 5 W; & to Levi H. Cannon, Ts. 19 N, Rs. 2 & 3 W. No time was lost after the receipt of your instructions as above in communicating with all unemployed deputies to whom it was proper to offer work. Contracts were entered into at the earliest day practicable with all who were willing to undertake a district under the restrictions which I was particularly directed to observe in the making out of said contracts.

Two of the deputies, Mr. Warner and Mr. Mellen, have returned from the field leaving their districts unfinished, and have reported to this office that every effort has been made by them to complete their contracts as required. Winter came upon them earlier than they anticipated. A heavy snow which fell in November to the depth of one and one-half feet, rendered further prosecution of their work impossible. These gentlemen ask that I shall consider the circumstances in which they are placed, and grant to them such an extension of time as will admit of their completing their contracts after they shall be able to reach the field in the spring.

I have no doubt as to the propriety of granting their request, but do not feel authorized to do so without first obtaining your sanction of such a course. I have, therefore, respectfully to request your instructions in relation to the matter.

It is supposed that Mr. Brewer has completed his district, as his progress has not been so obstructed by defective township lines as has been the case with Messrs. Mellen and Warner.

347 I have heard that the Messrs. Cannon have just completed their districts, which lay in a lower latitude, and consequently have not been so deeply covered with snow.

Very respectfully, your obed't serv.,

LEANDER CHAPMAN,  
*Surveyor General.*

Honbl. Thos. A. Hendricks, Com. Gen'l Land Office, Washington.

And then read

EXHIBIT 171.

GENERAL LAND OFFICE, *Jan'y 2nd, 1857.*

Leander Chapman, surveyor general, Detroit, Michigan.

SIR: Your letter of the 9th ultimo has been duly received. It informs this office that in pursuance of its instructions of the 2nd of September last, you have contracted with the deputies therein named for the resurvey of the townships enumerated; that you made contracts with all who were willing to undertake the surveys under the restrictions mentioned in the aforesaid instructions; that two deputies, Messrs. Warner & Mellen, were compelled, in November last, to abandon their field-work in consequence of an earlier winter and heavy snow than was anticipated, thereby precluding the prosecution of their work to completion; and, finally, that those deputies asked for an extension of their contract time, and that to enable you to comply with their request under the circumstances, you call on this office for instructions authorizing you to grant the same.

In reply I have to say that, in consideration of the causes which curtailed the surveying season in Michigan and postponed the completion of the field-work of Messrs. Warner & Mellen to a period beyond that stipulated in their respective contracts, you are hereby authorized to grant them the extension of time until the 1st of May next, with the express understanding that this indulgence will be the last; that the field-work under all contracts must be completed in time to enable you to pass upon it, to have it platted, and the original office work thereof, with the necessary transcripts executed and returned both to this office and those of the local land offices all complete, before the first day of July next; and, finally, that the original papers constituting the archives of your office be made ready for delivery of the same to the authorities of the State of Michigan by the 30th Sept. next.

The department having determined that the surveying service in Michigan shall be closed by the 30th June next, you are required to take measures accordingly with the view to bringing about the desired consummation of the affairs in your office by the time fixed as aforesaid. It is presumed, by detailing the present force of your office to the work as suggested, it can be readily accomplished; but should the ordinary means be inadequate to complete the amount of office work in that time with the regular force, you are requested to state what additional clerical force will be needed, together with an estimate of expenses therefor, to enable you to perform the work. The force in the office should be directed, first, to the completion of the plats and the necessary transcripts thereof; also of the transcripts of field-notes. The records may be laid over to the last, for this, in fact, could be made at any time hereafter.

Should any failings transpire on the part of your deputies calculated to require a longer time for the winding up of your office than stated above you will grant no further extension of time stipulated in their respective contracts, as this question will not be entertained

by the department, and consequently it will become your duty to cancel such contracts.

You are requested to respond to the foregoing at your earliest convenience.

Respectfully, &c.,

THOS. A. HENDRICKS,

*Commissioner.*

349 And

EXHIBIT 172.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *January 17, 1857.*

SIR: Your letter of the 2nd inst., in reply to my application for instructions in reference to unfinished contracts, containing also instructions pertaining to the future action of this office, was received on the 9th. I had prepared a letter in reply, with such statements as seemed to be called for in your letter, above referred to, intending to send it by today's mail. I have, however, on reflection, thought that it would be, under all the circumstances, advisable, and as there appears to be some unavoidable difficulties in regard to the proposed execution of both the office and field-work under my charge, to have this whole subject laid before you personally. I would, therefore, recommend that Mr. Thayer, my chief clerk, who was prevented by unavoidable absence from the city from seeing Mr. Wilson when here in September last, be allowed to proceed to Washington with such papers and data as will enable him to place all the facts before you, and give such explanations as seems to be required, and which it would be very difficult to do by correspondence, as there are many points embraced in your letter requiring immediate action which might, by a personal interview, having all necessary facts and data at hand, be better understood mutually.

I am persuaded, moreover, that the interests of the Government would be greatly promoted by this course.

I beg leave to say that it is my earnest wish to accomplish all the objects desired by the department, and there shall be no lack on my part to carry out all these to the extent of my power and as speedily as possible.

Should the suggestion made meet your approbation, I will thank you to advise me by telegraph, and I will give the proper papers to Mr. Thayer immediately, with instruction to proceed at once to Washington and report to you.

I am, respectfully, your ob't servant,

LEANDER CHAPMAN,

*Surveyor General.*

Hon. Thomas A. Hendricks, Com'r Gen'l Land Office, Washington.

Plaintiff's counsel then read

EXHIBIT 173.

GENERAL LAND OFFICE, *February 3d, 1857.*

Leander Chapman, Esq., surveyor general, Detroit, Mich.

SIR: I have received your letter of the 17th January last, acknowledging the reception of a letter from this office of the 2d of the same month, respecting unfinished contracts, and also instructions of January 9th pertaining to the future action of your office.

In reference to your proposition to send Mr. Thayer, your chief clerk, to Washington for the purpose mentioned by you, I beg leave to state that I prefer your communications may be dispatched by mail in the usual way on any matter on which you may desire advice or further instructions, and in this view Mr. Thayer's personal visit will not be necessary.

In the meanwhile, you will proceed to carry out the instructions contained in the letters of this office of the 2nd & 9th January last in the usual and ordinary course by correspondence.

Respectfully, &c.,

THOS. A. HENDRICKS,

*Commissioner.*

351 And then read

EXHIBIT 174.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *February 11th, 1857.*

SIR: I have the honor to acknowledge the receipt of your communications of the 3rd inst. in reply to my letter of the 17th ult., and in accordance with your directions I shall proceed, as far as practicable at this time, to comply with requirements of your letter of 2nd of Jan'y, and to lay before you in as brief a manner as the nature of those instructions will permit, some of the difficulties that will render it impracticable to carry them into effect in the manner and within the time required.

The authority given me to extend the time for the completion of the contracts of Messrs. Mellen and Warner is of no practical use, inasmuch as these deputies cannot again reach their districts before the 1st of May, the time named in your letter as being the utmost limit that can be allowed them in which to complete the resurveys embraced in their contracts. It appears reasonable that these deputies should either be released from the completion of their districts or be allowed sufficient time in which to do the work required of them. This will also apply to other uncompleted contracts and to work yet to be contracted. The execution of work in the field does not depend more upon the skill and energy of the surveyor than upon the locality and character of the work, or the season of the year in which it is expected to be executed. All deputies that have undertaken work in this district are required by their contracts and instructions to do it in a specified manner. The time necessarily

required by them to do such work depends, as stated, very much upon circumstances over which they have no control. Fixing a period, therefore, without any reference to such circumstances within which their work is to be completed, is manifestly unjust, and cannot produce the object desired, because if the time named is too short, an absolute impossibility is required.

I beg leave to suggest that in my opinion such a course may lead deputies to do their work in a hurried and careless manner, a too common fault, and one that I have labored much to obviate. The pecuniary interest of a surveyor who undertakes the public surveys under contract is such that he will make every effort possible, often endangering the rejection of his work, to complete a contract within the shortest practicable time. In a majority of instances where surveys have been suspended for defects or for being made contrary to instructions, it may be attributed to the fact that the deputy has failed to devote the necessary time to insure proper work. Such I have found to be the case with Mr. Warner and Mr. Brewer. I have just completed an examination of the field-notes returned by Mr. Warner, and I find them so defective and so much at fault that they must be retaken in the field. Mr. Brewer completed his district within the time required, but I am not able to approve of the notes of a single township, and it will be necessary for him, or some one for him, to return to the field and make corrections. To complete his work within the required time, he violated his instructions by employing a second party. Mr. Brewer has returned his notes. In two of the townships some of the lines have been run by a man who is not a deputy of this office, and of whose capacity I have no knowledge. To two of the townships he had appended the required oath; to the two done in violation of his instructions he has not made the usual oath, and asks that he be allowed to vary it to suit the facts, and that his notes then be accepted, he making any corrections found to be necessary. Excepting the meanders, his notes indicate that the work has been properly done. I have to ask your instructions as to the manner of disposing of the case of Mr. Brewer.

Notes of the resurvey of a district near Thunder bay, contracted to Josiah Knauer, embracing in all ten townships and fractional townships, have just been examined and rejected. Corrections are necessary before the work can be approved. I deem it my duty to state that to complete in a proper manner the remaining field-work in this State will require at least all of the spring and summer months of the present year. Nothing whatever can be done in the field before April, and much of the work cannot be commenced before the 1st of May. If it is desired that I shall furnish a statement of the unfinished field-work, giving its character, locality, how it must be given out, with as close an estimate as practicable of the time required to complete each district, I can readily do so.

By your instructions, I am required to have not only all of the field-works completed before the 1st day of July next, but, in addition thereto, to have all the comm'r's' & registers' plats made, notes examined, transcribed, &c. The statement made relative to the

field-work, if correct, will render this impossible. I am directed to have all the papers constituting the archives of the office in readiness to deliver to the authorities of the State of Michigan by the 30th day of September next.

It is stated that the present force of this office is supposed to be sufficient to readily accomplish this work, but I am requested, if the force is inadequate, to state what additional clerical aid will be required, and make an estimate of the expense of the increased force. A close and correct estimate of the number of clerks necessary, and the additional means that will be required to bring the work in this office to a close at the time proposed, cannot be made; time has, and will continue to prove the correctness of this statement. Only approximate estimates can be given.

I submit the following as being as nearly correct as such an estimate can be made:

Supposing that the whole number of additional clerks to be employed should commence their labor on the 1st day of March next, and that each clerk fully understands the work that may be assigned to him, so that he will lose no time in becoming acquainted with the manner and form in which his work is to be executed, 354 twenty additional clerks will be required, and a fund exclusive of what is now available of at least \$10,000 will be wanted to pay them. New office furniture will be required for the use of the increased force, which will probably cost \$200.

The difficulty of advantageously engaging such a number of clerks upon the unfinished office work, taking into consideration its peculiar character, condition and amount at this time, is a feature that should be considered, and against which many sound objections might be offered. It is proper that I should state that there is much work to be done that can only be properly and usefully executed by clerks who are perfectly familiar with the public and private surveys, who fully understand and are well acquainted with the great variety of field-notes and papers in the office. No new clerk, without previous experience, can acquire this information in a few days or months. A clerk may be engaged in the office for years and be incompetent to perform such labor, because his whole attention and observation may have been confined to a single branch of business. There is work to be done which, if done correctly and in a manner to be useful, cannot be performed by any new clerk, and must necessarily be confined to not more than two or three of the present force. This class of work is peculiar to and wholly connected with the finishing or closing up of the office business.

In conclusion, I beg leave to say that I desire to faithfully carry out, so far as it may be in my power to do so, such instructions as the department may deem it expedient to give me.

I am, very respectfully, your ob't serv't,

LEANDER CHAPMAN,  
*Surveyor General.*

Hon. Thomas A. Hendricks, Comm'r Gen'l Land Office, Washington.



## EXHIBIT 175.

GENERAL LAND OFFICE, *February 24, 1857.*

Leander Chapman, surveyor general, Detroit, Michigan.

SIR: Your letter of the 11th inst., acknowledging the receipt of mine of the 3d of the same month, has been received.

You represent that the time for the completion of the contracts of Messrs. Miller and Warner, as granted by this office on the 2d ulto., to the 1st day of May next, will be of no practicable use because they cannot reach their district before that time; and in view of the limitation of time in which the department had prescribed for the return of field-work, viz., 30th June next, and the transfer of the archives of your office to the State of Michigan, viz., 30th September next, you suggest that it would be reasonable either to release the deputies from the completion of their contracts or to allow sufficient time in which to do the work required of them, and that this time would depend on circumstances which will equally apply to other unfinished contracts & to work yet to be contracted. You state that the examination of Mr. Warner's field-notes disclose errors requiring his return to the field for the purpose of retaking the same. Mr. Brewer's work proving defective in every township, you say it will be necessary for him to return to the field to correct it; and inasmuch as he returned field-notes of two townships surveyed in violation of his contract by employing a man who was not a deputy, and consequently unable to swear to the work in person, you ask for instructions as to the manner of disposing of the case. Josiah Knauer's contract near Thunder bay, embracing ten townships, you say, upon examination was rejected by you, and corrections are necessary before the same are approved. You add that "to complete in a proper manner the remaining field-work  
356 in the State will require all the spring and summer months of the present year." Finally, you report to this effect: That an additional clerical force of persons who are not familiar with the business would complicate the difficulty, as you could not procure a sufficient number of competent clerks (at least 20) in order to carry out the requirements of this office of the 2nd January last, and would involve an additional expenditure to accommodate the increased clerical force.

In reply to the foregoing difficulties I have to say as follows:

The tenor of the instructions of the 2nd ultimo for the winding up of the surveying service in Michigan is adhered to by this office, with modification of the time within which the same was to have been accomplished, in order to suit the circumstances and to afford sufficient time to your deputies to return correct work under their respective contracts. This modification is as follows:

The time allowed to complete the work described in my instructions of the 2d ulto., before the first of July next, is hereby extended to the 30th September next, and the time for the delivery to the State authorities the original papers constituting the archives of your office is hereby extended to the 31st December next. And in



consequence of inability on your part to secure competent deputies for the correct performance of the work, as is obviously manifested in your communication to which this is the reply, and in view of the recurrence of the difficulties during the period just allowed for the completion of the field operations, you are required to enter into no further contracts after the receipt hereof, but to confine your energies to the work already commenced & contracted for, and cause the same to be accomplished within the time now allowed.

Presuming that you are familiar with the instructions relating to the duties and requirements of a surveyor general, I do not deem it necessary to further instruct you in the case of Mr. Brewer's difficulty growing out of the returns of work under his contract in violation of its terms, and consequently leave the solution of the question to yourself as the person responsible for your deputies.

Respectfully, &c.,

THOS. A. HENDRICKS, *Comm.*

Plaintiff's counsel then offered to read in evidence the files and records in the case of the *United States vs. Henry Nicholson et al.*, being No. 2202 of the United States circuit court for the eastern district of Michigan.

To which defendants' counsel objected as being immaterial and irrelevant, and the objection being sustained by the court, plaintiff's counsel excepted. The matter offered is as follows, so far as it relates to this issue:

#### EXHIBIT 175 A.

In the Circuit Court of the United States for the Eastern District of Michigan.

THE UNITED STATES OF AMERICA

vs.

HENRY NICHOLSON, DAVID H. ROWLAND, and JESSE CRAM.

} No. 2202.

#### *Calendar Entries.*

1849.

Nov. 12. *Præcipe* filed. Summons issued ret'ble 1st Monday Dec.

" 14. Summons returned. Served. Fees, \$8.40. Beardsly, d'y M.

Dec. 3. Narr. filed. 4. Appearance of defendant Rowland entered by Van Dyke & Emmons, his att'y-. Rule to plead entered.

" 24. Demand of oyer filed.

358

1850.

Jan. 3. Demurrer to narr. filed by def't Rowland.

May 23. Amended narr. filed by U. S. attorney. Rule to plead entered.

Nov. 25. Plea filed.

" " Jury trial. Verdict in favor of defendants.

*Amended Narr.*

Circuit Court of the United States for the Seventh Circuit and District of Michigan.

On the third day of December, in the year of our Lord one thousand eight hundred and forty-nine.

DISTRICT OF MICHIGAN, ss.:

The United States of America, plaintiffs in this suit, by George C. Bates, their attorney, complain of David H. Rowland, impleaded with Henry Nicholson and Jesse Cram, defendants in this suit. The said Henry Nicholson, David H. Rowland and Jesse Cram having been duly summoned to answer to the plaintiffs of a plea that the said defendants render to the said plaintiffs the sum of three thousand dollars, which they owe to and unjustly detain from them.

For that whereas, the said defendant Henry Nicholson heretofore, to wit, on the twentieth day of July, in the year of our Lord one thousand eight hundred and thirty-eight, made an agreement with Ezekiel S. Haines, surveyor general of the United States for the States of Ohio, Indiana and Michigan, who was acting for and in behalf of The United States, the plaintiffs in this suit, which said agreement is substantially as follows:

"Articles of agreement made and agreed upon this 20th day of July, 1838, between Ezekiel S. Haines, surveyor general of the United States for the States of Ohio, Indiana and the Territory of Michigan, acting for and in behalf of the United States of the one part, and Henry Nicholson, a deputy surveyor of the State of Michigan, of the other part, witnesseth, that the said Henry Nicholson, for and in consideration of the conditions, terms, provisions and covenants hereinafter expressed, and according to the true intent and meaning thereof, doth hereby covenant and agree with the said Ezekiel S. Haines, in his capacity aforesaid, that he, the said Henry Nicholson, in his own proper person, with the assistance of such chainmen and axemen and flag-bearers as may be necessary, agreeably with the laws of the United States, and with the general instructions to deputy surveyors and such special instructions as he may receive from the said surveyor general, will faithfully lay out, survey and subdivide into sections the following-described townships of land, viz:

Townships 18, 19 & 20, range 1 west,

Townships 18, 19 & 20, range 2 west,

Townships 18, 19 & 20, range 3 west,

situate north of the base line and west of the principal meridian, in the State of Michigan, and that he will complete these surveys in the manner aforesaid, and return the true and original field-notes thereof to the office of the said surveyor general on or before the 1st day of January next ensuing the date hereof (acts of God excepted), in penalty of forfeiture, and paying to the United States the sum

mentioned in the annexed bond, if default be made in any of the foregoing conditions.

And the said Ezekiel S. Haines, in his capacity aforesaid, covenant and agree with the said Henry Nicholson, that on the completion of the surveys above named, in manner aforesaid, then shall be paid to the said Henry Nicholson, on account of the United States, as a full compensation for the whole expense of surveying and making due return thereof, two dollars and seventy-five cents per mile, for every mile and part of a mile actually run and marked, random lines and offsets not included: *Provided*, no member of Congress have any part in this contract.

*In testimony whereof*, the parties to these article of agreement have hereunto set their hands and seals the day and year first above written.

E. S. HAINES, [L. s.]

*Surveyor General.*

HENRY NICHOLSON, [L. s.]

*Deputy Surveyor.*

Signed, sealed and acknowledged before us—

SAM'L WILLIAMS,

As to E. S. Haines' signature.

H. M. PERIN,

As to H. Nicholson's sig."

And also for that the said defendants heretofore, to wit, on the twentieth day of July, in the year of our Lord one thousand eight hundred and thirty-eight, at the city of Detroit, in the district of Michigan aforesaid, by a certain writing obligatory, sealed with their seals, the date whereof is the day and year last aforesaid, acknowledged themselves to be held and firmly bound, jointly and severally, unto the United States, in the sum of three thousand dollars, above demanded to be paid to the said United States, which said writing obligatory was and is subject to a certain condition thereunder written, in the words and figures following, to wit: "The condition of the above obligation is such that if the above-bounden Henry Nicholson shall well and truly and faithfully, and according to the laws of the United States and the instructions of the said surveyor general, make and execute the surveys which are required of him to be made by the foregoing contract, and return the field-notes of the said surveys to the surveyor general in the manner and within the period named in the said contract, then this obligation to be void, or otherwise it shall remain in full force and virtue," which said bond or writing obligatory was and is attached to the agreement hereinbefore in this declaration particularly set forth and described, and the said condition thereof has express reference to the covenants and agreements to be performed by the said Henry Nicholson, one of the above-named defendants, as a party to said agreement, hereinbefore set forth in the foregoing declaration.

And the said plaintiffs further aver and say that they have fully and faithfully complied with the terms and conditions of the contract above set forth to be performed on their part;

that heretofore, to wit, on the eighteenth day of June, in the year of our Lord one thousand eight hundred and thirty-nine, they paid to the said Henry Nicholson the sum of one thousand five hundred and twenty-one dollars and sixty-four cents as a full compensation for the aforesaid surveys in the said contract above set forth to be made by the said defendant Henry Nicholson.

And the said plaintiffs in fact further say that the said Henry Nicholson, deputy surveyor as aforesaid, did not well and truly and faithfully and according to the laws of the United States and the instructions of the surveyor general, make and execute the surveys which were required of him to be made by the aforesaid contract, and did not return the field-notes of the said surveys to the surveyor general in the manner and within the period named in the said contract, although not prevented by the act of God.

And the said plaintiffs in fact further say that the said Henry Nicholson did not in his own proper person, with the assistance of such chainmen, axemen, and flag-bearers as were necessary agreeably with the laws of the United States, and such general and special instructions as he received from the surveyor general, faithfully lay out, survey, and subdivide into sections the lands and premises particularly set forth and hereinbefore mentioned and described in said contract, nor did he complete the said surveys in the manner aforesaid, nor did he return the true and original field-notes thereof to the office of the said surveyor general on or before the first day of January next ensuing the date of said contract (acts of God excepted).

By reason of which said breaches the said writing obligatory became forfeited, and thereby an action hath accrued to the said plaintiffs, The United States of America, to demand and have of and from the said defendants the said sum of three thousand dollars above demanded.

Yet neither the said Henry Nicholson nor the said defendants David H. Rowland and Jesse Cram, or either of them, though often required so to do, have paid the said penalty above demanded, or any part thereof, but to pay the same have hitherto wholly neglected and refused, and still do neglect and refuse, to the damage of the United States of three thousand dollars, and therefore they bring suit, &c.

GEORGE C. BATES,  
*U. S. Attorney.*

Filed May 23, 1850.

JNO. WINDER, *Clk.*

*Plea.*

the Circuit Court of the United States for the District of Michigan.

DAVID H. ROWLAND & HENRY NICHOLSON & JESSE	}	No. 2202.
CRAM		
ads.		
UNITED STATES OF AMERICA.		

And the said defendants aforesaid, by Van Dyke & Emons, and his attorneys, to the amended narr. of said plaintiffs, come — defend the wrong and injury when, &c., & say that the said supposed writing obligatory is not their deed, and of this they put *themselves* before the country, &c.

VAN DYKE & EMMONS,

*Att'ys for Df'ts.*

And under the above plea notice is hereby given, and it is understood between the respective attorneys of the respective parties, that the said defendants may on the trial give in evidence as fully as if he had fully and formally pleaded the same, as follows, viz : *Nil debet*, and those things which under plea of *nil debet* are permissible. 2. Performance by the principal of the agreement which the writing obligatory is given to secure. 3. If there has been non-performance by the principal & breach of the bond, that there has been full payment and satisfaction made by said defendants, and that he has been and is released and discharged. 4. That the matters and things contracted to be done in by the contract which said writing obligatory was given to secure, are completed, and that the original field-notes and all things required to be returned by said contract were duly returned in due time to the office of the surveyor general, and were duly accepted by the Government and by said surveyor general, and the said principal paid off, and said def't notified thereof, whereby said def't surety as aforesaid became and was and is released and discharged. 5. And that said def't pleads and will give in evidence other matters on the trial pertinent in bar to the action.

VAN DYKE & EMMONS,

*Att'ys for Df'ts.*

GEO. C. BATES,

*U. S. Dis. Att'y.*

Filed Nov. 25, 1850.

JNO. WINDER, *Clerk.*

*Verdict.*

At a session of the circuit court of the United States for the seventh circuit and district of Michigan, continued and held, pursuant to adjournment, at the district court room, on Monday, the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and fifty.

Present : Hon. Ross Wilkins, district judge.

THE UNITED STATES OF AMERICA  
vs.  
HENRY NICHOLSON, DAVID H. ROWLAND, and JESSE C. CRAM.

} No. 2202.

Issue being joined in this case, and the parties present by their respective attorneys, hereupon comes a jury, to wit, Louis 364 Baubien, James Patchen, & talesmen Elisha Tyler, Tunis S. Wendell, James S. Patchen, and William Fulford, and by consent of parties, by their attorneys, the said six persons, as jurors, are sworn to try the issue joined, and after hearing the evidence adduced and receiving the charge of the court, say they find in favor of said defendants.

Plaintiff's counsel then offered to read in evidence the files and records in the case of *United States vs. Henry Brevoort et al.*, being No. 2198 of United States circuit court for the eastern district of Michigan.

To which defendants' counsel objected as being immaterial and irrelevant, and the objection being sustained by the court, plaintiff's counsel excepted. The matter offered is as follows, so far as it relates to this issue :

#### EXHIBIT 175 B.

In the Circuit Court of the United States for the Eastern District of Michigan.

THE UNITED STATES OF AMERICA  
vs.  
HENRY BREVOORT, JR., JAMES H. MULLETT, JOHN MULLETT, & JOHN HODGSON.

} No. 2198.

#### *Calendar Entries.*

1849.

- Nov. 12. Praecipe filed. Summons issued ret'ble 1st Monday of Dec.  
 " 13. Summons returned. Served on all but Hodgson. Fees, \$7.90. Wickware, D. M.  
 " 28. Appearance of def't Brevoort entered.  
 Dec. 3. Narr. filed.

365

1850.

- March 27. Demand of oyer filed.  
 May 23. Amended narr. filed. Rule to plead entered.  
 June 22. Demurrer filed by def't- J. H. Mullett, John Mullett, & John Hodgson.  
 " 27. Joinder in demurrer filed by pl'ff.  
 Sept. 18. Stipulation filed. Demurrer withdrawn and plea of performance filed by def'ts James H. Mullett, John Mullett, & John Hodgson.

- Oct. 16. Plea of performance filed by Brevoort.  
 Nov. 18. Jury trial, 19, 20, 21, 22, & 23. Jury hear evidence and argument.  
 " 23. Verdict in favor of defendant.

*Amended Narr.*

Circuit Court of the United States for the Seventh Circuit and District of Michigan.

Of the third day of December, in the year of our Lord one thousand eight hundred and forty-nine.

DISTRICT OF MICHIGAN, ss :

The United States of America, plaintiffs in this suit, by George C. Bates, their attorney, complain of Henry Brevoort, Junior, James H. Mullett, John Mullett, and John Hodgson, of the county of Wayne, in the district of Michigan. The said Henry Brevoort, Jr., John Mullett, and James H. Mullett having been duly summoned to answer to the plaintiffs, and the summons returned as to John Hodgson not found, of a plea that the defendants render to the said plaintiffs the sum of nine thousand six hundred dollars, which they owe to and unjustly detain from the said plaintiffs.

For that whereas, the said defendants, Henry Brevoort, Junior, and James H. Mullett heretofore, to wit, on the thirteenth day of December, in the year of our Lord one thousand eight hundred and thirty-nine, made an agreement with Ezekiel S. Haines, 366 surveyor general of the United States for the States of Ohio, Indiana, and Michigan, who was acting for and in behalf of The United States, the plaintiffs in this suit, which said agreement is substantially as follows :

"Articles of agreement made and agreed upon this 13th day of December, 1839, between Ezekiel S. Haines, surveyor general of the United States for the States of Ohio, Indiana, and Michigan, acting for and in behalf of the United States, of the one part, and Henry Brevoort, Jr., & Jas. H. Mullett, deputy surveyors, of the State of Michigan, of the other part, witnesseth, that the said Brevoort, Jr., & Mullett, for and in consideration of the conditions, terms, provisions, and covenants hereinafter expressed, and according to the true intent and meaning thereof, doth hereby covenant and agree with the said E. S. Haines, in his capacity aforesaid, that they, the said Brevoort, Jr., and Mullett, in their own proper persons, with the assistance of such chainmen and axemen and flag-bearers as may be necessary, agreeably with the laws of the United States, and with the general instructions to the deputy surveyors, and such special instructions as he may receive from the said surveyor general, will faithfully lay out, survey, and subdivide into sections, the following-described townships of land, viz :

Townships 24, 25, 26, 27 N, in range 1 west, of the meridian.

Townships 24, 25, 26, 27 N, in range 2 " "

Townships 25, 26, 27 N, in range 3 " "

Townships 25, 26, 27 N, in range 4 " "

Townships 25, 26, 27 N, in range 5 " "

Townships 24, 25, 26, 27 N, in range 6 " "

Townships 24, 25, 26 N, in range 7 " "

including the survey of the line between townships 25 & 26 N, in range 7 west, all in the State of Michigan, and that they will complete these surveys in the manner aforesaid, and return the true and original field-notes thereof to the office of the said surveyor general on or before the 15th day of August next ensuing the date hereof (acts of God excepted), in penalty of forfeiture and

367 paying to the United States the sum mentioned in the annexed bond if default be made in any of the foregoing conditions.

And the said E. S. Haines, in his capacity aforesaid, covenants and agrees with the said Brevoort, Jr., & Mullett, that on the completion of the surveys above named in manner aforesaid, there shall be paid to the said Brevoort, Jr., & Mullett, on account of the United States, as a full compensation for the whole expense of surveying and making due return thereof, two dollars and seventy-five cents per mile for every mile and part of a mile actually run and marked, random lines and offsets not included, and four dollars per mile for the township lines, provided no member of Congress have any part in this contract.

In testimony whereof, the parties to these articles of agreement have hereunto set their hands and seals the day and year first above written.

E. S. HAINES, [L. s.]

*Surveyor General.*

H. BREVOORT, JR., [L. s.]

JAMES H. MULLETT, [L. s.]

*Deputy Surveyors.*

Signed, sealed, and acknowledged before us—

SAM'L WILLIAMS,

As to E. S. Haines.

B. F. HALL,

As to James H. Mullett & H. Brevoort, Jr."

And also for that the said defendants heretofore, to wit, on the thirteenth day of December, in the year of our Lord one thousand eight hundred and thirty-nine, in the county of Wayne, in the district of Michigan aforesaid, by a certain writing obligatory, sealed with their seals, the date whereof is the day and year last aforesaid, acknowledged themselves to be held and firmly bound, jointly and severally, unto the United States, in the sum of nine thousand six hundred dollars above demanded, to be paid to the said United States, which said writing obligatory was and is subject to a certain



condition thereunder, written in the words and figures following, to wit: "The condition of the above obligation is such that if the above-bounden Brevoort, Jr., & Mullett shall well and truly and faithfully, and according to the laws of the United States and the instructions of the said surveyor general, make and execute the surveys which are required of *him* to be made by the foregoing contract, and return the field-notes of the said surveys to the surveyor general in the manner and within the period named in the said contract, then this obligation to be void, or otherwise it shall remain in full force and virtue." Which bond or writing obligatory was and is attached to the agreement hereinbefore in this declaration particularly set forth and described, and the said condition thereof has express reference to the covenants and agreements to be performed by the said Henry Brevoort, Junior, & James H. Mullett, two of the above-named defendants, as parties to said agreement hereinbefore set forth in the foregoing declaration.

And the said plaintiffs further aver and say that they have fully and faithfully complied with the terms and conditions of the contract above set forth to be performed on their part; that heretofore, to wit, on the twenty-fourth day of July, in the year of our Lord one thousand eight hundred and forty, they paid to the said defendants Henry Brevoort, Jr., & James H. Mullett, the sum of four thousand and forty-two dollars and seventy-eight cents as a *full compensation* for the aforesaid surveys in the said contract above set forth to be made by the said defendants Henry Brevoort, Jr., & James H. Mullett.

And the said plaintiffs in fact further say that the said Henry Brevoort, Jr., & James H. Mullett, deputy surveyors as aforesaid, did not well and truly and faithfully and according to the laws of the United States and the instructions of the surveyor general, make and execute the surveys which were required of them to be made by the aforesaid contract, and did not return the field-notes of the said surveys to the surveyor general in the manner and within the period named in the said contract, although not prevented by the act of God.

And the said plaintiffs in fact further say that the said Henry Brevoort, Jr., and James H. Mullett did not in their own proper person, with the assistance of such chainmen and axmen and flag-bearers as were necessary agreeably with the laws of the United States and such general and special instructions as they received from the surveyor general, faithfully *lay out*, survey, and subdivide into sections the lands and premises particularly set forth and hereinbefore mentioned and described in said contract, nor did they complete the said surveys in the manner aforesaid, nor did they return the true and original field-notes thereof to the office of the said surveyor general on or before the fifteenth day of August next ensuing the date of said contract, acts of God excepted.

By reason of which said breaches the said writing obligatory became forfeited, and thereby an action hath accrued to the said plaintiffs, The United States of America, to demand and have of and

from the said defendants the said sum of nine thousand six hundred dollars above demanded.

Yet neither the said Henry Brevoort, Jr., -or James H. Mullett, nor the said defendants John Mullett and John Hodgson, or either of them, though often requested so to do, have paid the said penalty above demanded, or any part thereof, but to pay the same have hitherto wholly neglected and refused, and still do neglect and refuse, to the damage of the United States of nine thousand six hundred dollars, thereupon they bring suit, &c.

GEORGE C. BATES,  
U. S. Attorney.

Filed May 23, 1850.

JNO. WINDER, *Clk.*

370

*Plea of Henry B. Brevoort, Jr.*

Circuit Court of the United States for the District of Michigan.

HENRY BREVOORT, JR., Impleaded with JAMES H. MUL-  
LETT, JOHN MULLETT, and JOHN HODGSON,  
*ads.*

THE UNITED STATES OF AMERICA.

No. 2198.

And the said Henry Brevoort, Jr., impleaded with James H. Mullett, John Mullett and John Hodgson, by Willcox & Gray, his attorneys, as to the said declaration of the said plaintiffs, says that the said plaintiffs ought not, by reason of anything by them in said declaration alleged, to have or maintain their aforesaid action thereof against him, the said defendant, because they say that the said Henry B. Brevoort, Junior, & the said James H. Mullett did, after the making of said articles of agreement and the said writing obligatory in the said declaration mentioned, to wit, on the fourteenth day of August, in the year of our Lord one thousand eight hundred and forty, in the State of Michigan aforesaid, in their own proper persons, with the assistance of such chainmen, axemen and flag-bearers, as were necessary agreeably with the law of the United States, and with the general instructions to the deputy surveyors, and such special instructions as they did receive from the surveyor general, faithfully lay out, survey and subdivide into sections the townships described in said contract or articles of agreement, including the survey of the line between townships twenty-five and twenty-six north in range seven west, and did complete said surveys in the manner aforesaid, and did return the true and original field-notes thereof to the office of the said surveyor general on the fifteenth day of August, in the year of our Lord one thousand eight hundred and forty, according to the true intent and meaning of the said contracts and of the said writing obligatory in this behalf.

And also for that the said Henry B. Brevoort, Jr., & James H. Mullett did, to wit, on the said fourteenth day of August, well and truly and faithfully, and according to the laws of the United States

and the instructions of the surveyor general, make and execute the surveys which were required of them to be made by the said contract in said declaration mentioned, and did return the field-notes of said surveys to said surveyor general in the manner and within the period named in said contract, to wit, on the said fourteenth day of August, in the year aforesaid, according to the true intent and meaning of said writing obligatory and of said contract in that behalf.

And this he, the said Henry B. Brevoort, Jr., prays may be enquired of by the count-y, &c.

And the said plaintiffs do the like.

WILLCOX & GRAY,

*Att'ys for D'ft Brevoort.*

Filed Oct. 16, 1850.

JNO. WINDER, *Clerk.*

372 *Plea of James H. Mullett, John Mullett, & John Hodgson.*

Circuit Court of the United States for the District of Michigan.

JAMES H. MULLETT, JOHN MULLETT, and JOHN HODGSON, Impleaded with HENRY BREVOORT, JUNIOR,	} No. 2198.
<i>ads.</i>	
THE UNITED STATES OF AMERICA.	

And the said James H. Mullett, John Mullett, and John Hodgson, impleaded with Henry Brevoort, Junior, by Howard and Mandell, their attorneys, as to the said declaration of the said plaintiffs, say that the said plaintiffs ought not by reason of anything by them in said declaration alleged to have or maintain their aforesaid action thereof against them the said defendants, because they say that the said Henry Brevoort, Junior, and the said James H. Mullett, did, after the making of said articles of agreement and the said writing obligatory in said declaration mentioned, to wit, on the fourteenth day of August, in the year of our Lord one thousand eight hundred and forty, in the State of Michigan aforesaid, in their own proper persons, with the assistance of such chainmen and axemen and flag-bearers as were necessary, agreeably with the laws of the United States and with the general instructions to the deputy surveyors and such special instructions as they did receive from the said surveyor general, faithfully lay out, survey and subdivide into sections the townships described in said contract or articles of agreement, including the survey of the line between townships twenty-five and twenty-six north, in range seven west, and did complete and survey in the manner aforesaid, and did return the true and original field-notes thereof to the office of the said surveyor general on the fifteenth day of August, in the year of our Lord one thousand eight hundred and forty, according to the true intent and meaning of the said contract and of the said writing obligatory in this behalf.

And also for that the said Henry Brevoort, Junior, and James H. Mullett, did, to wit, on the said fourteenth day of August, in the year aforesaid, well and truly and faithfully and according to the laws of the United States and the instructions of the surveyor general, make and execute the surveys which were required of them to be made by the said contract in said declaration mentioned, and did return the field-notes of said surveys to the said surveyor general in the manner and within the period named in said contract, to wit, on the said fourteenth day of August, in the year aforesaid, according to the true intent and meaning of said writing obligatory and of said contract in that behalf.

And this they the said James H. Mullett, John Mullett, and John Hodgson, pray may be enquired of by the county, &c.

HOWARD & MANDELL,

*Att'ys for said Def'ts.*

And the said plaintiffs do the like.

GEO. C. BATES,

*U. S. Dist Att'y, Mich.*

Filed Sept. 18, 1850.

JNO. WINDER, *Clerk,*

By GEO. G. BULL, *Deputy.*

374

*Verdict in Favor of Defendant.*

At a session of the circuit court of the United States for the seventh circuit and district of Michigan, continued and held pursuant to adjournment at the district court-room, in the city of Detroit, on Saturday, the twenty-third day of November, in the year of our Lord one thousand eight hundred and fifty.

Present: Hon. Ross Wilkins, district judge.

THE UNITED STATES OF AMERICA

*vs.*

HENRY BREVOORT, JUNIOR, JAMES H. MULLETT, JOHN  
MULLETT, & JOHN HODGSON.

No 2198.

The jurors empaneled and sworn to try the issue joined in this case being called, appear and take their seats in the jury-box, to wit: Ransom Curtiss, Franklin Wasson, Louis Beaubien, Erastus Clark, George W. Rice, James Patchin, Mason Palmer, Elisha Tyler, David Kendall, Nicholas W. Pullen and Lewis Hall; who, after hearing all the evidence adduced by both parties, and the arguments of counsel on either side, and after hearing the charge of the court, retire to consult of their verdict under the charge of A. Wickware, the officer sworn to attend them, and, after being a short time absent, return into court and say they find for defendants.

375 And on like offer, objection, ruling and exception, the court excluded

## EXHIBIT 176.

DETROIT, Dec'r 13, 1850.

SIR: In pursuance of the suggestion of Mr. Lucius Lyon, late surveyor general, contained in his official report of Nov. 5, 1849, (see Ex. Doc. No. 1, 1st sess. 31 Cong., part II, p. 282, *Senate*), sundry suits were commenced the last year in the circuit court, U. S., for this district, against Dep. Surveyors Nicholson, Brookfield, Brink, Brevoort & James H. Mullett, (see p. 283), on all whose bonds, except Brookfield's, *John Mullett* of this city was surety. Lyon urged the institution of these suits for the purpose, as is here generally believed, and as I have not the least doubt, of preventing the appointment of John Mullett, who is a very competent and excellent man, as his, Lyon's successor. I was employed by Mr. M. as his counsel to defend the suits in which he was interested. The case, avowedly the strongest for the Government, that against Henry Brevoort, Jr., & James H. Mullett (as joint contractors), and their sureties, was lately tried. After a protracted and careful trial, the jury returned a verdict for the defendants. Mr. Bates, the dist. att'y took exceptions to some of the rulings of the court, which I do not, I confess, deem important, because the facts in the case would not, in any event, warrant a recovery. We produced and proved the original *field-notes* of the deputies, and proved the actual running and marking of the lines by the *chain-carriers*.

There was not the slightest proof that the "returns of surveys were fraudulent," or that any portion of the field-notes were "fictitious," as stated by Lyon in his report.

There was indeed no proof whatever of fraud or neglect on the part of those deputies or their hands. On the contrary, they proved that they worked hard and diligently for four months. The court and jury were satisfied that Lyon's charges of *fabricating returns* was without any foundation.

376 The only testimony the Government relied upon was that of Mr. William A. Burt, a deputy surveyor. In April, 1849, as he swore, he was sent by Lyon to *explore and examine* the lands in question, as well as others, with a view to ascertain the correctness of the surveys, and Lyon was to pay him out of *then* the late appropriation (see L. U. S., vol. 9, p. 364), by allowing him the price of surveying a township for every period of fourteen days which he should spend in exploring. He also swore that he made no contract with Lyon to resurvey the lands, but proceeded under such instructions as the above. He was out one hundred and seventeen days, visited numerous townships, passing through them in various directions, and resurveyed one (*T. 26 N., R. 7 W.*), and part of another, and returned home in Sept., for which Lyon paid him over three thousand dollars. Lyon swore that he employed him under a letter of instructions from the Commissioner Gen'l Land Office then produced in court, which was not written until the *following June*, nor until long after Burt had been sent off upon the work—a plain falsehood.

Neither by that instruction nor by the act referred to had Lyon any authority to spend the money for examining and exploring merely, but only for the "*correction of erroneous and defective surveys*" (see the *instructions to Lyon* dated June, 1849, and the *Act L. of 1849*, p. 62). At six dollars a mile the survey of a township will cost about three hundred and sixty dollars, and the work done by Burt, which he was authorized by law to do, would be worth about \$540. Lyon is therefore justly a debtor to the Government for about \$2,500, which he has squandered in this transaction on a favorite. When testifying as a witness he refused to say whether he had at any time received credible information that these surveys were defective, and I do not believe he had ever been so informed. There is no proof of it. But it certainly was *one* way to grind an axe on the Government. The chief clerk in his office has told me that the  
 377 whole scheme was gross *humbug*. Burt's testimony was utterly inconclusive. He said himself that he found very many of the old monuments (the surveys were made in 1840 under contract of 1839), and that a large portion of the country had been run over by fire which consumed much of the timber. We proved the same facts by others.

I write this at the request of my clients. I feel assured that no recovery can be had in any of the cases above alluded to. *The proofs are insufficient*, as I think, but it rests upon the Government whether they will proceed farther.

I understand that the account of James H. Mullett for surveys made by him last season is suspended at the department on account of the pendency of this suit and one or two others in which he is security. I beg to assure you that his character stands fair as a man. The suspension of his account operates very severely upon him, and I sincerely hope the department may be able to relieve him.

Lyon, it is said, is about to visit Washington. Should he call on you in reference to these matters, I beg you would believe him so far as his story is corroborated by undoubted evidence, but no farther. He is a schemer, and has one particular friend and backer in the General Land Office, as I am credibly informed.

I have the honor to remain

Very respectfully, your ob't serv't, J. M. HOWARD.

Hon. A. H. Stewart, Secretary Interior, Washington, D. C.

378 And on like offer, objection, ruling, and exception, the court excluded

#### EXHIBIT 177.

UNITED STATES DIS. ATT'Y'S OFFICE,  
 DETROIT, Feb'y 10, 1851.

SIR: In reply to your question as to the present situation of the suit in favor of The United States *vs.* Henry Mullett, Henry Brevoort as principals, and John Mullett, John Hodgson *et al.* as sureties, I have to reply that the cause was tried in December, and has been

taken to the Supreme Court on a bill of exceptions to the ruling of the judge. But the evidence on the trial showed conclusively that the contract for the survey had been faithfully fulfilled, and I have no doubt that the defendants will eventually have a verdict. But as the charge of the judge was clearly erroneous, and as it applies to other cases, the U. S. could not permit it to remain. The sureties, too, are perfectly good, and should the Gov't finally recover, the amount will be paid. Under these circumstances, I can see no reason why the Gov't should withhold the amount due Henry Mullett for his surveys of the last year.

Your ob't serv't,

GEO. C. BATES,  
*U. S. Dis. Att'y, Mich.*

Hon. James L. Conger, M. C. elect.

And on like offer, objection, ruling, and exception, the court excluded

#### EXHIBIT 178.

UNITED STATES DIS. ATT'Y'S OFFICE,  
DETROIT, *Feb'y* 11, 1851.

SIR: In a more full explanation of the case of Henry Mullett's claim to be paid for surveys made by him some year or more *since*,

I would state that the suit pending in our court is an action  
379 of debt on a bond against Henry Mullett and Henry Brevoort as principals, and John Mullett and others as sureties. That bond was executed in 1839, and the contract of survey was completed in July, 1840. The money now due to Henry Mullett is for a survey made a year *before last*, and has no connection whatever with the case pending in court. I have no doubt, from the evidence of the chainmen and axemen, that the jury will eventually find that they, Henry Mullett and Henry Brevoort, did perform their contract according to its terms. But as there are other cases to abide the decision of this one, and as the charge of the judge is clearly and manifestly wrong, this case must be prosecuted to a final decision. I can see, however, no objection to the payment by the Government to Henry Mullett of the amount due to him *individually* for his survey year before last, as the sureties in the suit pending are perfectly good, and in the event of a new trial and a verdict for the United States the money could be collected on the judgment. But the evidence taken at the former trial convinces me that the verdict will finally be that they, Brevoort and Mullett, did complete their contract according to its terms, and, therefore, nothing is due to the U. S. Were not other cases depending upon the decisions of the questions of law involved in the charge of the judge, I should unhesitatingly advise a discontinuance of the suit. As the case now stands, I can see no earthly objection to the payment of Henry Mullett for his last survey year before last.

Your ob't serv't,

GEO. C. BATES,  
*U. S. Dis. Att'y, Mich.*

Hon. Justin Butterfield, Commissioner Public Lands, Washington, D. C.



380 And on like offer, objection, ruling and exception, the court  
excluded

## EXHIBIT 179.

SURVEYOR GENERAL'S OFFICE,  
DETROIT, *Feb'y* 28, 1851.

Hon. J. Butterfield.

SIR: I deem it my duty to transmit to you the enclosed copies of  
charges made against Lucius Lyon, one of the deputies of this office.

Henry Brevoort, Jr., was formerly a deputy of this office, and the  
correspondence being of that character which explains itself, I deem  
remarks of my own altogether superfluous.

I am, sir, with great respect, your ob't serv't,

CHARLES NOBLE,  
*Sur. General.*

(*First Inclosure.*)

Copy.

179 A.

DETROIT, *Feb.* 11th, 1850 (1851).

Chas. Noble, Esqr., sur. gen'l of Ohio, Mich., &c.

SIR: Having given notice that Lucius Lyon had not surveyed  
the district which he was under contract to survey for the U. S. the  
last summer, or if surveyed, he did not do the same personally, as  
by instructions he was compelled to do,

I deem it my duty to make the following statement of facts in re-  
gard to the executions of said surveys, which, if true, ought to pre-  
vent the said Lucius Lyon from returning the notes of said survey.  
In the first place, the recent general instructions which have been  
adopted at this sur. gen'l's office, were made up by him during the  
period of time he, the said Lyon, was sur. gen'l of this district, and  
the execution of any surveys in any manner not strictly according  
to said instructions, was deemed by him a sufficient violation of the  
contract to justify him in rejecting the notes of the deputy.

381 and withholding the just compensation for the work which  
thence may have been done in a faithful and workmanlike  
manner.

After having been suspended in the office of the surveyor gen'l,  
his first care was to monopolize all the public surveys in this district.  
It will appear, upon examination, that he was allowed to enter into  
contracts for the execution of surveys, which it was impossible for  
him to execute in person during the extension of the contract, and,  
in order to secure to himself the emoluments & profits resulting  
from surveying so large a district, he employed other persons to do  
the field-work, and therefore did not run lines or make notes thereof  
personally, as by instructions he was bound to do.

The said Lyon also, for the purpose of covering up the fraud he  
intended to practice upon the surveyor general's office of this district,



as regards his personal attention to surveys, as well as the General Land Office, did descend to the contemptible practice of addressing to one of the public newspapers of this city certain articles for publication relative to public lands, which said communication purported to have been written, and dated at Grand Traverse bay, a distance of 250 or 300 miles from this city; when at the same time, he, the said Lyon, was well known then in the city of Detroit.

That he did not accompany his party to the district which he was to survey, but remained a long time in this city after they had departed, that when he did go to look after those employed by him, he remained but a short time with them, and did not, personally, run any lines or keep notes of the surveys, and that he soon returned to Detroit, and then went to Lansing, the seat of government of this State, and spent a long time at that place during the session of the convention for forming a new constitution. It is also well known that from the length of time he was in this city, and at other places, he could not have appropriated more than 5 or 6 weeks to a personal attention of the field-work, or examination of lines by those employed by him. The undersigned cannot perceive why the

382 said Lucius Lyon should be allowed to violate the instructions, which are considered to be binding on *all deputies*, and thereby enabled to monopolize the business of surveying large districts, when others, more competent and experienced men, would have been glad to have been employed, but who have been crowded out of the business by the monopoly thus created for his special benefit.

It is believed by many who have had occasion to investigate the matter that the said Lyon is not competent to do good work, or, if competent, he has carelessly or fraudulently executed surveys for the United States in years past.

That many of the surveys executed by him in this State for the United States several years ago are proved to be erroneous, and in violation of the instructions at that time given to deputy surveyors, to wit, township 6 north, of range 12 west, in this State.

The instructions which are now given to deputies makes it imperative that the deputy in the execution of the surveys to be made by him shall use Burt's patent solar compass, an expensive instrument and liable to get out of adjustment, and it is well known that in districts where there is no local attraction, the common instrument usually used for public surveys, is as good, if not better; not so liable to get out of adjustment, and in all respects correct in the hands of an experienced and practical man. It is stated by good authority that Lyon did not furnish or procure Burt's patent compass for running the lines in his district, for all those who were employed by him to run lines states that only one instrument of that description was in use, and used by one party only. The other parties using the common compass altogether. If instructions were deemed so sacred by him whilst acting as surveyor gen'l, why should he be allowed such latitude to disregard and farm out the surveys as he pleased and most convenient for making the most out of the job? For the above reasons I cannot perceive the propriety of allowing the said Lyon to receive pay or return notes of surveys of which

383 he must be totally ignorant, and furthermore, he has borrowed money from several of his deputies, and has never paid it back to them, without he has done it within a day or two, and *that* I doubt very much, for several of his men that *was* employed by him the past summer (if they speak the truth, and I have no doubt they do), they have not as yet been *paid* by Lyon, and probably will never get pay from him, and serve them the way he did his deputies, and a certain person from Lake Superior; is that honesty or Christian-like?

Very respectfully, your obedient servant,

(Signed)

HENRY BREVOORT, JR.

No. 2, H. Brevoort to sur. gen'l.

(*Second Inclosure.*)

(Copy.)

179 B.

DETROIT, *Feb. 14, 1851.*

Charles Noble, Esq., sur. gen'l of Ohio, &c.

SIR: I have just received yours of the 7th inst. in reply to my note of the 5th, giving you information of the total disregard of the terms of a contract, and the general instructions on the part of Lucius Lyon, one of your deputies. Now you request me to furnish you with the proper testimony of the truth of my statement. In answer to your request, I would inform you that whenever you will bring the subject before a tribunal, competent to take testimony and to compel the attendance of witnesses, they shall not be wanted. In the meantime, it would not be proper to ask persons to volunteer their testimony when no use could be made of it.

But to bring down the ire of an unprincipled individual who might do them an injury, or get them out of the way when their testimony might be needed.

Very respectfully, your ob't serv't,

(Signed)

HENRY BREVOORT, JR.

No. 3, copy, H. Brevoort to sur. gen'l.

384 And after like offer, objection, ruling and exception, the court excluded

EXHIBIT 180.

GENERAL LAND OFFICE, *January 15th, 1853.*

Charles Noble, Esq., surveyor general, Detroit, Michigan.

SIR: In order to determine definitely what action should be had with reference to your office, in view of the requirements of the act of 12th June, 1840, it is important that the department should be advised of the exact condition of your district, both as regards the field and the office work yet remaining to be done.

Such information, it is thought, can best be obtained by a full

and free personal conference between the officers in charge of that branch of the business here and your own office, and as the pressure upon this office during the session of Congress is so great as to render it inconvenient to spare any of its clerical force, I have to request that you will, as early as may be convenient, detail some competent person in your office to procure the desired information, and bring it on, with such explanations and suggestions as you may deem it serviceable to make.

The individual selected for this duty should, of course, be one in whose experience and judgment the department can repose entire confidence, and his expenses will be defrayed out of the general surveying fund.

The great experience of your chief clerk, Mr. Frost, will probably enable him to give more information on the subject than any other of your assistants.

Very respectfully, your ob't serv't,

JOHN WILSON,  
*Commissioner.*

385 After like offer, objection, ruling and exception, the court excluded

EXHIBIT 181.

SURVEYOR GENERAL'S OFFICE, DETROIT, *Febr'y* 14, 1853.

SIR: To enable me fully to comply with the requirements of your letter of the 15 ult., I have caused to be prepared, with as much care as could be bestowed upon it in the limited time which could be devoted to that purpose, a full schedule of office and field work yet to be performed in this district, preparatory to turning over the papers and documents to the authorities of the State of Michigan, and have detailed the bearer, George S. Frost, Esqr., chief clerk of this office, to proceed to Washington in person therewith, for the purpose of having full and free personal conferences with the officers in charge of that branch of the business there.

The great experience of Mr. Frost in the business of this office, and his good judgment, will enable him to give all the information relative to the condition of the office which the department may deem important.

I am, respectfully, your ob't serv't.,

CHARLES NOBLE,  
*Sur. General.*

Hon. John Wilson, Commissioner, &c., Washington.

*Schedule of Office and Field Work yet to be Performed in this District Preparatory to Turning over the Papers and Documents to the Authorities of the State of Michigan.*

1. There are 7 townships remaining unsurveyed in the mineral region, Upper Peninsula.
2. There are 7 townships of the surveys of 1851 which are suspended for examination, situated in the Upper Peninsula.

3. There are *ten* townships of resurveys now under contract which have not yet been completed, in the Lower Peninsula.  
 386 4. The islands in Saginaw river & bay are now under contract for survey.

*Office Work.*

There are 94 townships of surveys and resurveys of the past season yet to be platted.

There are 500 townships, including the above, the descriptive notes of which are to be made.

There are 660 townships, the field-notes of which are yet to be transcribed.

There are 530 townships, the field-notes of which are yet to be recorded.

This will all be clearly seen by reference to the diagram of the State accompanying this statement.

The progress of the regular office work has been very much retarded by the labor which has attended the making up and copying of the lists of swamp lands granted to this State. As this labor is now nearly finished, should no other extra duties be imposed upon this office, the whole force of the office may be applied to the regular work, and, if prosecuted with energy, much of the work now on hand may be accomplished during the present year.

CHARLES NOBLE,

*Surveyor General.*

Surveyor general's office, Detroit, Feb. 12, 1853.

P. S.—It will be observed that the above statement is exclusive of any resurveys which may hereafter be made.

- 387 After like offer, objection, ruling and exception, the court excluded

EXHIBIT 182.

The schedule accompanying the surveyor general's letter of Feb. 14, 1853, in reference to the field and office work connected with the office at Detroit, only embraces a summary of such work as is necessary now to be accomplished with a view of closing up the affairs in that district.

There are, it is estimated, upwards of 100 townships, excluding the Higgins surveys, the original surveys of which are either reported (officially) to be fraudulent or defective, or have been so represented by individuals interested in the purchase of lands. Much of the office work has already been performed in these townships, and their resurveys, if made under the direction of the surveyor general, would involve the corresponding amount of office work, without reference to what has already been performed, as that would of course be cancelled.

But a small portion of the record plats have yet been made—only south of the base line and east of the meridian as far north as Saginaw bay.

If the remainder of these are to be made before closing up the office, or if it is necessary that they should be made, it will involve a vast amount of labor, if the work is properly performed.

There will be, it is estimated, 1,000 plats thus to be copied, including the plats in the mineral region, which require a great amount of labor in copying.

These items were not embraced in the foregoing schedule for the reason that the former, it was supposed, would, by the act of Congress recently passed, come under the supervision of the General Land Office, and the latter was considered a work not absolutely necessary, tho' the same had been performed before transferring the papers to the States of Ohio and Indiana.

388 It may be proper to add, as an important fact in reference to the resurvey of land in the northern part of the Southern Peninsula, that it may be fairly estimated that the Government will lose nothing by ordering the work.

If the swamp-land selections are made according to the indications of the present surveys, which are doubtless, to a great degree, fraudulent, the aggregate surplus of good agricultural lands, which would thus be granted to the State, would, when sold, be more than enough to pay the entire cost of resurvey.

The foregoing statement is furnished as requested, subject, however, to revision and correction hereafter, as the matter cannot be well digested without reference to the books and papers in the office of the surveyor general at Detroit.

Respectfully submitted.

GEO. S. FROST,

*Chief Clerk Surveyor General's Office, Detroit.*

To John Wilson, Esq., Commissioner, Washington, Feb. 24, 1853.

Plaintiff's counsel then read

#### EXHIBIT 183.

GENERAL LAND OFFICE, *Sept. 23d*, 1859.

William Sanborn, Esq., dep. com'r, Lansing, Michigan.

SIR: I am in receipt of your letter of the 14th inst., respecting certain lands in the Ionia district, Michigan, selected under the swamp grant of Sept. 28th, 1850, and which have been patented to the State.

You state that a portion of the lands described by you have been sold at the U. S. land office at Ionia, and that others thereof are in the market under the general instructions from this office.

If the local land offices are permitting the entry of any lands claimed as swamp, they are doing so in violation of express instructions to the contrary. To prevent such sales in future,  
389 if they are permitting them, I have this day directed them to withhold from sale or disposition in any manner any tracts reported to them as swamp.

The tracts in question were confirmed to the State by the act of 3d

March, 1857, and any sale since that time, except in case of settlement made prior to that date, is invalid and will be cancelled.

Very respectfully, your ob't serv't,

JOS. S. WILSON,

*Act'g Commissioner.*

And then read

EXHIBIT 184.

MICHIGAN STATE LAND OFFICE,

LANSING, *February 20th*, 1862.

His excellency Austin Blair, *governor*.

SIR: Yours inclosing the communication of the Commissioner of the General Land Office of the 15th of Jan'y, 1862, in reference to cancelling the patent issued by the State for lot 2 of sec. 21, T. 38 N., R. 23 W., Sault Ste. Marie district, is received and has again been considered, after a submission of the law of the case to Attorney General Upson, whose opinion is on file. The facts are conceded to be as follows:

This lot 2, of sec. 21, T. 38 N., of range 23 W., is included in the grant by Congress to the State of Michigan, by virtue of the act of the 28 Sept., 1850; it was so determined by the rule adopted by the surveyor general of this State, which rule was recognized by the Commissioner of the General Land Office in a communication to the Secretary of the Interior, dated Jan'y 22nd, 1858, explanatory of his instructions under the swamp-land grant of 28th Sept., 1850. Having been so determined, it was regularly listed and patented to this State in March, 1856, and in August, 1858, after having been publicly advertised by the then commissioner of the State land office, it was sold at public auction to Messrs. Ludington and Wells, who paid the price bid, and received of the State a patent therefor.

I am unable to find any shadow of mistake or irregularity in the proceedings. It also appears that the tract was located at the district land office with wt. 44,118, on the 16th of July, 1853; that this location was cancelled on the 22nd of March, 1854, for conflict with the State, under the law of Sept. 28, 1850, and the warrant returned to the locator, who refuses to accept it, etc.

You are required to cancel the patent issued to Ludington & Wells by the State, so that a patent may issue to the locator of July the 16th, 1853, by the General Government.

The question presented is simply one of priority of title, which of the two parties, the State or locator, under the land warrant, obtained the elder or first title of the General Government, the same source.

We hold that the act of Congress of Sept. 28th, 1850, was absolute, and conveyed to the State of Michigan a right to the land in question from the date of the act, and that when there is a conflict of title from the same source, the latter must give way to the earlier title.

These conclusions are founded, it is believed, upon well-settled principles of law, and will be found very elaborately discussed in

an opinion furnished the Secretary of the Interior by Attorney General Black, under date of Nov. 10th, 1858, in relation to conflicting railroad and swamp land claims.

Attorney General Black says: "That the act of Congress of Sept. 28th, 1850, gave the State of Michigan a right to this land from the date of the grant;" "that when there is a conflict between two titles derived from the same source, either of which would be good if the other were out of the way, the elder must always prevail, *prior in tempore, potior est in jure.*" \* \* \* "It is not necessary that the patent should issue before the title vests in the State, under the act of 1850. The act of Congress was itself a *present grant*, want-

ing nothing but a definition of boundaries to make it perfect, 391 and to obtain that object, the Secretary of the Interior was directed to make out an accurate list and cause patents to issue therefor; but when a party is authorized to demand a patent for land, his title is vested as much as if he had the patent itself, which is but the evidence of title. The subsequent grant by Congress \* \* \* could not have been intended to take away from the State the rights previously vested for other purposes. \* \* \*

Even if we could suppose that to be the meaning of Congress, in this case it would avail nothing to the later grantee, since in all conveyances a later grant must yield to an earlier."

Thus the opinion of the State authorities are confirmed by the opinion of Att'y Gen'l Black.

Your excellency is well aware also of the doctrine held by our own Supreme Court in regard to the cancelment of deeds or other evidences of title by executive officers, and the patentees in this instance have vested rights which, according to the decision referred to in the case of *The People vs. The State Treasurer*, 7th Michigan Reports, cannot be summarily cancelled and annulled by the act of an executive officer, but they are entitled to have those rights tested in a judicial manner in the courts of law.

It appears to me, therefore, evident that by virtue of the act of Sept. 28, 1850, the State of Michigan became, at that date, vested with the rights to this lot 2; that she has the elder and prevailing title over any grant made subsequently by the General Land Office, and that the patents issued by the State in 1858 ought not of right to be cancelled or annulled by the executive, but that the parties be left to try their legal rights in the proper courts.

Very respectfully your ob't servant,

SAMUEL S. LACEY,  
*Commissioner.*



392 And then read

## EXHIBIT 185.

DEPARTMENT OF THE INTERIOR, H. A. W.  
 GENERAL LAND OFFICE, E. K.  
 WASHINGTON, D. C., Jan'y 5, 1873.

L. A. Clapp, Esq., commissioner of lands, Lansing, Mich.

SIR: In reply to your communication of the 31st ult., I have to state that our records show that the lands described by you, viz:

N  $\frac{1}{2}$  of N W  $\frac{1}{4}$  sec. 1, 34 N, R. 29 W, Mich.

N E  $\frac{1}{4}$  of N E  $\frac{1}{4}$  " 2, " " " " "

S  $\frac{1}{2}$  of N E  $\frac{1}{4}$  " 2, " " " " "

S E  $\frac{1}{4}$  " 2, do. do.

N E  $\frac{1}{4}$  of N E  $\frac{1}{4}$  11 " "

N  $\frac{1}{2}$  of N E  $\frac{1}{4}$  12 " "

N  $\frac{1}{2}$  of N W  $\frac{1}{4}$  12 " "

S E  $\frac{1}{4}$  of S E  $\frac{1}{4}$  35, 35 " "

S  $\frac{1}{2}$  of S W  $\frac{1}{4}$  36 " "

S  $\frac{1}{2}$  of S E  $\frac{1}{4}$  36 " "

were selected as swamp lands January 16th, 1855.

The aforementioned tracts are confirmed to the State as swamp lands by act of March 3d, 1857, and there being no legal adverse claim prior to that date, will this day be listed and submitted to the Secretary of the Interior for his approval, preliminary to patenting the same to the State of Michigan as swamp lands.

Very respectfully, WILLIS DRUMMOND,  
*Commissioner.*

Indorsed: Pat. rec'd.

393 And then read

## EXHIBIT 186.

DEPARTMENT OF THE INTERIOR, H. A. W.  
 GENERAL LAND OFFICE, E. K.  
 WASHINGTON, D. C., Oct. 24th, 1873.

His excellency the governor of Michigan, Lansing, Mich.

SIR: I have the honor to transmit herewith a certified copy of approved list No. 18, of swamp and overflowed lands, selected as enuring to the State of Michigan, under provisions of the act of Congress approved Sept. 28th, 1850, in the district of lands subject to sale at Ionia, Michigan. Please acknowledge receipt thereof, and transmit your request for patent.

Very respectfully, your ob'd't se'v't,  
 W. W. CURTIS,  
*Acting Commissioner.*

Indorsed: Patent applied for Dec. 4th, 1873.



And then read

EXHIBIT 187.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., *Feb'y* 20, 1874.

L. A. Clapp, Esq., commissioner of State lands, Lansing, Mich.

SIR: In reply to your letter of the 9th inst., relative to the W  $\frac{1}{2}$  of S E  $\frac{1}{4}$  sec. 14, T 11 N, R 14 E, former Detroit district, Mich., I have to state that our records show that the tract in question was selected as swamp land Jan'y 26, 1853, and approved as such June 25, 1853, but was never carried into patent.

The above land is confirmed to the State as swamp by act 394 of March 3d, 1857, and there being no legal adverse claim thereto, it will be patented to the State of Michigan at an early day.

Very respectfully,

WILLIS DRUMMOND,  
*Commissioner.*

Indorsed: Patent received.

And then read

EXHIBIT 188.

K. DEPARTMENT OF THE INTERIOR, H. W. B.  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., *Nov.* 17, 1875.

His excellency the governor of Michigan, Lansing, Mich.

SIR: I have the honor to transmit herewith a certified copy of approved list No. 22, of swamp and overflowed lands selected as enuring to the State of Michigan, under the provisions of the act of Congress approved September 28, 1850, in the district of lands subject to sale at Traverse City.

Please acknowledge receipt thereof, and transmit your request for patent.

Very respectfully, your ob't serv't,

Ans. J. J. B.

S. S. BURDETT,  
*Commissioner.*

And then read

EXHIBIT 189.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., *April* 10th, 1876.

L. A. Clapp, Esq., commissioner of State lands, Lansing, Mich.

SIR: In reply to your letter of the 14th of January last, respecting certain lands in the State of Michigan, I have to inform you that the following tracts, to wit:

395	S E $\frac{1}{4}$ of N E $\frac{1}{4}$ sec. 27, T. 25 N., R. 7 W.,	patent.
	W $\frac{1}{2}$ of N E $\frac{1}{4}$ " 27, " "	patented.
	N W $\frac{1}{4}$ of S W $\frac{1}{4}$ " 27, " "	patented.
	S E $\frac{1}{4}$ of S W $\frac{1}{4}$ " 27, " "	patented.
	N E $\frac{1}{4}$ of N W $\frac{1}{4}$ " 3, 23 9	patented.
	S E $\frac{1}{4}$ of N W $\frac{1}{4}$ " 11, 30 9	patented.

are included in list No. 24 of swamp and overflowed lands for the Traverse City district, which was on the 8th instant submitted to the Secretary of the Interior for his approval, preliminary to patenting the same to the State of Michigan as swamp lands.

The S W  $\frac{1}{4}$  of S W  $\frac{1}{4}$  of sec. 25, T. 20 N., R. 3 W., will be included in the next list prepared for the Ionia district.

Very respectfully, your ob't serv't,

U. J. BAXTER,  
*Acting Commissioner.*

And then read

#### EXHIBIT 190.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., April 13, 1876.

His excellency the governor of Michigan, Lansing, Mich.

SIR: I have the honor to transmit herewith a certified copy of approved list No. 24, of swamp and overflowed lands selected as enuring to the State of Michigan, under the provisions of the act of Congress approved Sept. 28, 1850, in the district of lands subject to sale at Traverse City, Mich.

Please acknowledge receipt thereof and transmit your request for patent.

Very respectfully, your ob't serv't,

U. J. BAXTER,  
*Acting Commissioner.*

Answered and patent requested.

G. H. H.

396 And then read

#### EXHIBIT 191.

Flint & Pere Marquette railway, land department. W. L. Webber,  
land commissioner and solicitor.

EAST SAGINAW, MICH., Dec. 26, 1876.

Com'r State land office, Lansing, Mich.

D'R SIR: Will you please inform me who entered W  $\frac{1}{2}$  of S E  $\frac{1}{4}$  of sec. 23, and N  $\frac{1}{2}$  of N W  $\frac{1}{4}$  section 26, both in T 18 N R 7 west, Osceola Co., and at what date?

Will you advise me whether the State has made a final adjustment of its claim for swamp lands, so far as the same relates to Mason county.

My inquiry has reference especially to an island in Pere Mar-

quette lake, in secs. 25 and 26, T 18 N, R 18 W. That part of the island on sec. 25 has been certified by the Com'r of Gen'l Land Office as part of the grant to this company, and I desire to know whether the State has any unsettled claim or will have any claim to that part of the island which lies in sec. 26.

An early reply will much oblige,

WM. L. WEBBER, *Land Com.*,  
Per NEWTON.

MEM.—Alonson F. Orton and Henry J. Orton of Newaygo Co.,  
Jan. 4, 1864.

And then read

EXHIBIT 192.

MICHIGAN STATE LAND OFFICE,  
LANSING, MICH., Dec. 27th, 1876.

Hon. Wm. L. Webber, land com'r, East Saginaw, M.

DEAR SIR: In reply to your letter of yesterday, the W  $\frac{1}{2}$  of S E  $\frac{1}{4}$  sec. 23, and N  $\frac{1}{2}$  of N W  $\frac{1}{4}$  sec. 26, both in township 18 N, 397 R 7 W, were State swamp lands, and were sold by this department on Jan'y 4th, 1864, to Alanson F. Orton and Henry J. Orton, of Newaygo Co.

In relation to the final adjustment of the grant of swamp land to the State, we can only say that such adjustment has not been had as regards any county in the State.

That part of the island in Pere Marquette lake lying in sec. 26, T 18 N, R 18 W, was never surveyed by the U. S. We claim that it will inure to the State under the grant whenever surveyed, the returns of the sur. gen'l stating it to be overflowed.

Very respectfully yours,

L. A. CLAPP, *Com.*  
SHERMAN.

And then read

EXHIBIT 193.

Refer in reply to this initial:

K. 1889.—7073.

E. K.

R. A.

DEPARTMENT OF THE INTERIOR,

D. O. P.

GENERAL LAND OFFICE,

L. J. W.

WASHINGTON, D. C., Jan'y 22, 1889. J. V. W.

His excellency the governor of Michigan, Lansing, Mich.

SIR: I have received your letter of January 14, 1889, requesting that the N  $\frac{1}{2}$  of the S E  $\frac{1}{4}$  of sec. 6, in township 2 north, of range 2 west, Michigan, may be patented to the State of Michigan as swamp land.

I have to state in reply that the N W  $\frac{1}{4}$  of the S E  $\frac{1}{4}$  of said sec. 9 does not appear to have been claimed as swamp land. Said tract was sold July 9, 1878, to Silas P. Hovey and Henry P. Taylor, and was patented to them from March 5, 1880.

398 The N E  $\frac{1}{4}$  of S E  $\frac{1}{4}$  of said section appears to have been reported as swamp land March 29, 1852. If, on examination, no adverse claim shall be found to exist, a list embracing said tract will be presented to the Secretary of the Interior for approval.

Very respectfully,

S. M. STOCKSLAGER,  
*Commissioner.*

And then read

EXHIBIT 194.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., August 1, 1887.

Henry S. Sleeper, Esq., deputy State land com'r, Lansing, Mich.

SIR: In further reply to your letter of June 16, 1887, in regard to S W  $\frac{1}{4}$  of S W  $\frac{1}{4}$  of sec. 11, in township 8 south, of range 12 west, Michigan, I have to state that said tract is embraced in a list approved by the Secretary of the Interior, July 23, 1887.

A certified copy of said list will be sent to the governor of Michigan in a few days.

Very respectfully,

S. M. STOCKSLAGER,  
*Ass't Commissioner.*

And then read

EXHIBIT 195.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., September 28, 1887.

His excellency the governor of Michigan, Lansing, Mich.

SIR: I have the honor to transmit herewith a certified copy of approved list No. 34, of swamp and overflowed lands selected as inuring to the State of Michigan, under provisions of the act of Congress approved Sept. 28, 1850 (R. S. sec. 2479), in the district of land subject to sale at Reed City, formerly at Ionia, Michigan.

399 Please acknowledge receipt thereof, and transmit your request for patent.

Very respectfully, your obedient servant,

WM. A. SPARKS,  
*Commissioner.*

MEM.—N E S E, 20 18, 8 W.

Plaintiffs here rested.

And the foregoing is a substantial statement of all the evidence in the case.

The attorney for the plaintiff then requested the court to instruct the jury as follows:

1. By virtue of the act of Congress approved September 28th, 1850, all the swamp and overflowed lands made thereby unfit for

cultivation in the State of Michigan, which were then  
 Yes. unsold and unappropriated by the United States, and containing the larger part of any legal subdivision in the Government survey, were by that act granted to and became the property of the State of Michigan.

2. By virtue of that act, not only all the lands which were actually swamp, containing an area of more than one-half of a legal subdivision of land, according to the United States survey of the public domain, but all the land in each legal subdivision of the Government survey, the greater part of which was swamp, which was at the passage and approval of said act unsold and unappropriated, became and was the property of the State.

3. It was competent for the Secretary of the Interior to determine in advance in what mode the lands granted should by him  
 Yes. be identified, and to adopt the field-notes of the surveys on file in the office of the surveyor general as the method of identification.

400 4. The act of Congress made it the duty of the Secretary of the Interior to identify the lands granted, and when he tendered to the State of Michigan the election to receive the lands granted according to the field-notes of the Government survey as the basis of identification, in accordance with the

No. instructions under date of November 21st, 1850, which method of identification was accepted by the legislature of the State by an act passed and approved June 21st, 1851, the method so tendered and accepted became a compact between the State of Michigan and the United States, and was binding upon both parties.

5. The Secretary of the Interior, having approved the selections contained and designated by legal subdivisions in a list called the Ionia land district No. 1, over his hand and bearing date the 27th day of October, A. D. 1853, and made a plat thereof under and in accordance with said act of Congress, and forwarded said

No. list of legal subdivisions and plat to the governor of the State of Michigan, and suggested that the governor request patents therefor from the United States, and the governor having requested patents to be issued therefor on the 31st day of January, 1854, and the legal subdivisions in issue in this suit being contained in and designated as swamp lands in said list and plat as swamp lands enuring to the State of Michigan under said act of Congress; the title to the legal subdivisions described in the plaintiff's declaration in issue in this suit became fully identified and fully vested in the State of Michigan.

6. That after making said list and plat, and forwarding them to the governor of the State of Michigan, the work of issuing the patents therefor, as requested by the governor, was merely

No. ministerial, and the Secretary of the Interior could not deprive the State of Michigan of such lands by neglecting or refusing to issue patents therefor.

7. The act of Congress approved March 3d, 1857, confirmed to the State of Michigan all selections embraced in the approved list

No. 1, of the Ionia land district, which were, at the date of said act, vacant and unappropriated, and not interfered with by  
 401 previous settlement under the laws of the United States; and the uncontradicted evidence in this case showing that the lands described in the plaintiff's declaration were embraced in such selections and contained in the approved list and plat made No. by the Secretary of the Interior, and were, on the 3d of March, 1857, vacant, unappropriated and not interfered with by previous settlement under the laws of the United States; were by that act confirmed to the State of Michigan; such act of confirmation operating as a grant of lands embraced in such approved list and plat.

8. If such approved list made and approved by the Secretary of the Interior was, on the 3d of March, 1857, withheld from patent because of resurveys having been ordered or made, and if he had any corrective or other authority over such list to alter and No. act upon it, then the act of March 3d, 1857, applied to such list and confirmed the lands designated therein to the State of Michigan, and deprived the Secretary of the Interior of all power in the premises save to cause patents to such lands to be issued to the State of Michigan.

9. The testimony in the case fails to show that there had been any such adjustment of the swamp-land grant between the No. State of Michigan and the United States, as in law deprives the State of the title of the land granted to it under the act of Congress of September 28th, 1850, and claimed in this suit.

10. The testimony in this case fails to show that there has been any estoppel as against the State to forbid its grantee and No. those claiming title from the State to rely upon the act of Congress granting the lands involved in the issue in this case to the State.

No. 11. Upon the whole record and the testimony given you in the open court, your verdict should be for the plaintiff.

COURT: Is there any claim made here under the statute of limitations?

DEFENDANTS' COUNSEL: No, your honor. We ask your honor to instruct the jury that upon the whole evidence the plaintiff  
 402 is not entitled to recover, and direct a verdict for the defendant. That is our request to charge.

COURT: I will say to counsel that as it lies in my mind there is no substantial distinction between this case and the first, except that the lands in question are found in an approved list which was subsequently revoked and cancelled by the Secretary of the Interior, and the question that arises upon the power of the Secretary to order the resurvey, or revoke any certification of lands made by him before the actual issue of patents. If he had such power, then of course, the title of the defendants must prevail in this action, and I have no doubt the Secretary had the power not only to order the resurvey, as I have held before; but at any time before the issue of the patents, if he discovered that there was fraud or mistake, or

if he was satisfied upon the evidence before him that the lands were not of the character granted by the act of September 28, 1850, it was his duty, notwithstanding he had certified them to the State by approval of the list, to revoke that certification, cancel it, and the lands remain unaffected. And of course if the patents had issued, it is quite probable that his action would have been conclusive on the rights of the parties; that patent, not having been issued, and the Secretary having decided, as it was his province to decide, on the facts before him, that the lands were not of the character granted, I think the title of the defendants must prevail.

With reference to the act of 1857, my impression is very strong. Both from the reading of the act and from what I have seen in the decisions of the Department of the Interior, where the question has arisen once or twice, that that act was primarily intended for those selections of land made by the States themselves, pursuant to the surveys which they had made, and had no application, at least it wasn't originally intended for and does not apply to those lands designated as swamp lands under the surveys of the United States, and it certainly has no application to those lands, the lists of which

403 were set aside and cancelled, and of which a resurvey was ordered by the Secretary of the Interior, and the act of 1857 could not, in my judgment, even if it intended to apply to all the States alike, it could not revive selections which had been so far cancelled by the Secretary of the Interior in the line of his duty, as to order a resurvey of those lands. Now, my views are very imperfectly expressed in this manner, because it comes in a hurry and I have not had a chance to reduce them to form. I will direct a verdict in this case for the defendants.

Mr. CHAMPLIN: I will take an exception to the refusal by the court to charge as requested in plaintiff's fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh requests.

And plaintiff's counsel also except to so much of the charge of the court as reads as follows:

"I will say to counsel that, as it lies in my mind, there is no substantial distinction between this case and the first, except that the lands in question are found in an approved list, which was subsequently revoked and canceled by the Secretary of the Interior, and the question that arises upon the power of the Secretary to order the resurvey or revoke any certification of lands made by him before the actual issue of patents. If he had such power, then, of course, the title of the defendants must prevail in this action, and I have no doubt the Secretary had the power not only to order the resurvey as I have held before."

And plaintiff's counsel also except to so much of the charge of the court as reads as follows:

"But at any time before the issue of the patents, if he discovered that there was fraud or mistake, or if he was satisfied upon the evidence before him that the lands were not of the character granted by the act of September 28, 1850, it was his duty, notwithstanding he had certified them to the State before approval of the list, to revoke that certification, cancel it, and the lands remain unaffected.



And of course, if the patents had been issued, it was quite probable that this action would have been conclusive on the rights of the parties, that patent not having been issued, and the Secretary having decided, as it was his province to decide, on the facts before him, that the lands were not of the character granted, I think the title of the defendants must prevail."

And plaintiff's counsel also object to so much of the charge of the court, as reads as follows:

"With reference to the act of 1857, my impression is very strong. Both from the reading of the act and from what I have seen in the decisions of the Department of the Interior, where the question has arisen once or twice, that the act was primarily intended for those selections of land made by the States themselves pursuant to the surveys which they had made, and had no application, at least it wasn't originally intended for and does not apply to those lands designated as swamp lands under the surveys of the United States, and it certainly has no application to those lands the lists of which were set aside and canceled, and of which a resurvey was ordered by the Secretary of the Interior, and the act of 1857 could not, in my judgment, even if it intended to apply to all the States alike, it could not revive selections which had been so far canceled by the Secretary of the Interior in the line of his duty as to order a resurvey of those lands."

And also except to the direction of a verdict for the defendants.

And the said issue under the instructions aforesaid was submitted to said jury, and the said jury returned a verdict for the defendants, and against the plaintiff, that said defendants were not guilty of holding the land described in plaintiff's declaration, in the manner and form as charged against it.

And because none of the exceptions so made, appear on the record of said trial, on request of the counsel for the plaintiff this bill of exceptions has been settled and signed this 15th day of August, A. D. 1893, the time having been duly extended for that purpose.

HENRY H. SWAN,

*District Judge.*

405

*Assignment of Errors.*

UNITED STATES OF AMERICA:

Circuit Court of the United States for the Sixth Circuit, Eastern District of Michigan.

MICHIGAN LAND AND LUMBER CO. (LIMITED), Plaintiff, }  
vs. }  
CHARLES A. RUST, Survivor, etc., Defendant.

Now, to wit, on the 12th day of January, A. D. 1894, comes the said plaintiff in error before the said court, by its attorney, and says that in the record and proceedings aforesaid, and also in the giving of judgment aforesaid, there is manifest error in this, to wit:

1. In not permitting the plaintiff to show by its witness, Oscar Palmer, that prior to 1853, and between 1850 and 1853, that the



General Government, through its Land Department, had sold lands in every section by the plats of the old survey, in town 18 north, 3 west, State of Michigan, and had thus recognized this old survey (Record, p. 61).

2. In not permitting witness Oscar Palmer to testify in answer to the question, "I will ask you if it was not a fact, that in this same town and some of these sections, land was sold; take 20, 21, 22, 28 and 35, and see if they were not sold on the same section before the resurvey" (Record, pp. 61, 62).

3. In not permitting plaintiff to show by its witness, Oscar Palmer, that the plat of the old survey of said township, 18 north, 3 west, "was a recognized Government survey, and in actual use by  
406 the Government, up to and including March 3, 1857" (Record, p. 62).

4. In admitting in evidence against the objection of plaintiff, Exhibit 57, being a letter from John S. Barry to the President of the United States, dated February 3, 1842, sending inclosed therewith a copy of joint resolution of the legislature of Michigan, approved February 1, 1842, asking for the resurvey of eighty-one whole and fractional townships in said State, all lying east of the principal meridian, except towns 16, 17 and 18 north of ranges 6, 7 and 8 west, which exhibit is set out in full on pages 80 and 81 of the Record.

5. In admitting in evidence against the objection of plaintiff, Exhibit 58, being a letter of E. M. Huntington, Commissioner of the General Land Office, to President Tyler, dated February 17, 1842, returning to the President the letter and inclosure of February 3, 1842 (Exhibit 57), and inclosing a diagram showing the districts referred to in the resolution, and stating that the records of the land office showed no evidence of irregularities in the surveys; that all the land except one township was open to private entry, and recommending that the matter be referred to the surveyor general at Cincinnati for examination; on which letter is an indorsement of the President directing such reference, all of which is set out in full on pages 81 to 83 of the Record.

6. In admitting in evidence against the objection of plaintiff, Exhibit 59, being a letter of E. M. Huntington, Commissioner of the General Land Office, to John S. Barry, governor of Michigan, dated February 21, 1842, acknowledging receipt of the governor's letter of February 3, 1842, with its inclosure (Exhibit 57), and inclosing a copy of the Commissioner's instructions to the surveyor general at Cincinnati, dated February 21, 1842, which instructions were to report any facts in his possession bearing on the matter, and make any suggestions that might occur to him for the correction of the supposed errors and preventing them in the future. A

similar diagram to that laid before the President was inclosed,  
407 also a letter to Dr. Houghton, of October 22, 1840, from J. A. Rousseau, acknowledging some defects in surveys made by him; also directing the surveyor general to enforce certain standing instructions to deputy surveyors, all of which is set out in full on pages 83 to 85 of the Record.

7. In admitting in evidence over plaintiff's objection, Exhibit 60, being the report of Surveyor General Haines to E. M. Huntington, Commissioner of the General Land Office, dated March 4, 1842, in pursuance of the instructions of February 21, 1842. The report says deputies were appointed on the recommendation of parties known to the office upon which he must rely for evidence of the integrity of the deputy. As to the Rousseaus he found them employed when he took the office, and the employment was continued. Their work had been in the main satisfactory, and when errors had been found they had been corrected. In the summer of 1840, he had been informed that affidavits had been lodged with the register of the land office at Genesee, Mich., charging irregularities in the surveys. He then details how the letter to Dr. Houghton came to be written. He had written the register a number of times, but had received no reply, and doubts the existence of any affidavits. Had made inquiry at other sources as to the Rousseau surveys, but failed to obtain any accurate information. As to the districts of other deputies the letter of instructions contained the first information of irregularities.

The surveyor general recommends that Wm. A. Burt and John H. Mullett be employed to examine the towns charged to be erroneous, and report their condition, and if found defective, that new surveys be made at the expense of the contractors or their bondsmen.

He then explains how it might be possible for a deputy to make up fictitious returns of surveys, and says that such impositions had been practiced under some of his predecessors, and suggests that no Michigan official had ever complained to him of the state of the surveys, and that he was yet ignorant of the character of the alleged frauds.

408 He then makes some suggestions as to providing against future errors.

All of which is set out in full on pages 85 to 94 of the Record.

8. In admitting in evidence over the plaintiff's objection, Exhibit 61, being a letter of E. M. Huntington, Commissioner of the General Land Office, to Governor Barry of Michigan, dated April 21, 1842, inclosing a copy of his instructions of the same date to Surveyor General Haines issued in consequence of the report of the latter, directing the employment of an experienced deputy to examine the towns alleged to be fraudulently surveyed, and containing some general instructions for such deputy. All of which is set out in full on pages 94 to 96 of the Record.

9. In admitting over the objection of plaintiff, Exhibit 62, being the instructions of Surveyor General Haines to Wm. A. Burt, dated April 11, 1842, Mr. Burt being employed to make the examination. The letter recites the previous correspondence with the Commissioner of the General Land Office, and instructs Mr. Burt to examine and report upon certain towns, sending him the original field-notes of some of them, all of which is set out in full on pages 96 to 98 of the Record.

10. In admitting over plaintiff's objection, Exhibit 63, being a letter dated August 1, 1842, of Surveyor General Johnson to

Thomas H. Blake, Commissioner of the General Land Office, which transmits to the department Mr. Burt's report on towns examined, and makes some comments on the same, found in full on page 99 of the Record.

11. In admitting over plaintiff's objection, Exhibit 64, being a letter dated October 4, 1842, of Blake, Commissioner of the General Land Office, to Hon. A. S. Porter, which acknowledges the receipt of a prior letter, and advises him of the receipt of the report of Mr. Burt, and that the towns examined appeared to be defective and fraudulent, and that it was the design of the office to issue the instructions for the necessary resurveys, which letter is found in full on page 100 of the Record.

409 12. In admitting over plaintiff's objection, Exhibit 65, being a letter dated April 27, 1843, from Wm. Johnson, surveyor general, to Thomas H. Blake, Commissioner, acknowledging receipt of advices that \$4,000 had been set apart for making the resurveys, and stating the sum was not sufficient, and that in consequence the surveys would be confined to the towns nearest the coast, and that three deputies had been instructed to be ready to take the work, which letter is found on pages 100 and 101 of the Record.

13. In admitting over plaintiff's objection, Exhibit 66, being the report of the Commissioner of the General Land Office and surveyor general for the year 1843, showing the work of resurvey already undertaken under the instructions recited, and making and recommending an estimate for an appropriation for the completion of the resurveys north and west of Saginaw bay, an extract from which report is found on pages 102 and 103 of the Record.

14. In admitting over plaintiff's objection, Exhibit 67, being a letter dated September 16, 1844, from Wm. Woodbridge to Blake, Commissioner of the General Land Office, urging the appropriations for surveys in Michigan, and particularly the prosecution of the work of resurveying the towns alleged to have been fraudulently surveyed, and alleging that the Genesee land office was selling lands by the plats of the old survey after new one made, which letter is found in full on pages 103 to 105 of the record.

15. In admitting over the objection of plaintiff, Exhibit 68, being a letter of Commissioner Blake to Hon. Wm. Woodbridge, dated September 30, 1844, acknowledging receipt of his letter of the 16th, stating that \$15,000 had been apportioned to the surveys for the district of Ohio, Indiana and Michigan, and that under instructions to the surveyor general practically the entire sum would be expended in Michigan; that instructions had been issued for certain resurveys; that the land officers at Genesee had been

410 written to regarding the alleged sales by the plats of the old survey, which letter is found in full on pages 106 and 107 of the Record.

16. In admitting in evidence over the objection of the plaintiff, Exhibit 69, being a letter of Blake, Commissioner of the General Land Office, to the register and receiver of the land office at Genesee, Michigan, dated October 1, 1844, stating he is advised that the plats

of the old survey are being used in making sales, and desires to know the reason, and that these plats should have been canceled on receipt of the plats of the new survey, and proper reference made, and that the plats of the fraudulent survey should not be used, which letter is found in full on pages 107 and 108 of the Record.

17. In admitting in evidence over plaintiff's objection, Exhibit 70, being the published reports of the Commissioner of the General Land Office and surveyor general for the years 1844 to 1848 inclusive. The report for 1844 says that the work of resurvey north and west of Saginaw bay was still unfinished, the work ordered April 13, 1843, had been completed, and that other work was in progress. It also recommends an appropriation for resurveying 44 townships west of Saginaw bay.

The report for 1845 says 12 more townships have been resurveyed and others will be put under contract, and makes an estimate for the year ending June 30th, 1847, for resurveying 14 townships west of Saginaw bay.

The report for 1846 says 32 townships north and west of Saginaw bay have been resurveyed, and suggests that there is reason to believe that there are other erroneous surveys in the northern part of the Southern Peninsula, and that examinations should be made.

The report for 1847 again suggests that other townships have been erroneously surveyed, and urges resurveys.

The report for 1848 says, contracts have been let for examination and resurvey if necessary, of certain old surveys in the vicinity of the Maskego and Manistee rivers, covering about 595 miles of surveys, and calls particular attention to the districts surveyed  
411 by John P. Allard and John Brink, which are alleged to be fraudulently returned.

An estimate of \$10,000 for correction of surveys in Michigan for the year ending June 30, 1850, is made.

Extracts from which reports are found on pages 108 and 112 of the Record.

18. In admitting over the objection of plaintiff, Exhibit 71, being a letter of Richard M. Young, Commissioner of the General Land Office, to Hon. A. Felch, dated February 17, 1849, stating that he had written Hon. S. Breese, chairman of Committee of Public Lands, requesting the appropriation of \$10,000 for the correction of erroneous and defective surveys in southern Michigan, which letter is found in full on page 113 of the Record.

19. In admitting over objection of the plaintiff, Exhibit 72, being a letter dated February 17, 1849, from Richard M. Young, Commissioner, to Hon. S. Breese, requesting the insertion of \$10,000 in the appropriations for the correction of surveys in Michigan, which letter is found in full on pages 113 and 114 of the Record.

20. In admitting in evidence over the objection of plaintiff, Exhibit 73, being a letter dated July 10, 1849, from Lucius Lyon, surveyor general, to Justin Butterfield, Commissioner, which acknowledges letter of the 4th ult. from Mr. Butterfield's predecessor, advising of appropriations for surveys in Michigan, and containing certain instructions as to resurveys. Commenting on these instructions

thinks it better and less expensive to make entire new surveys rather than attempt joining old lines to new ones. That Mr. Burt and Mr. Risdon were then in the field making examination of surveys, their compensation to be such as the Commissioner sees fit to allow. These examinations the surveyor general considers necessary in order to ascertain what frauds have been committed in the surveys, also as useful in determining how the appropriation of

412 \$10,000 would be expended. Reports had been received from Mr. Burt up to the 3d of the last month, but none from Mr. Risdon, which letter is found in full on pages 114 to 116 of the Record.

21. In admitting in evidence over plaintiff's objection, Exhibit 74, being the published report of the Commissioner of the General Land Office and surveyor general for the year 1849. It recites the employment of Risdon and Burt to make examination of surveys, and that Mr. Risdon had not been heard from, and Mr. Burt had reported on districts surveyed by C. W. Christmas, Henry Nicholson, John Brink, Henry Brevoort, Jr., and others. The account of these examinations is set forth in a table annexed to the report. Based on this report the surveyor general thinks probably there are 150 townships in the Lower Peninsula that will require a resurvey, the cost of which would be \$50,000, and that only a small portion of this could be collected on the bonds of the delinquents. Attention is also called to the delinquencies of S. W. Higgins, a deputy under the then surveyor general, and the suspension of his accounts.

Several tables are annexed showing the particulars of the contracts for the districts examined by Mr. Burt, and estimate of \$20,000 made for the year ending June 30, 1851, for surveys in this district. Extracts from the reports are found on pages 116 to 124 of the Record.

22. In admitting in evidence over plaintiff's objection, Exhibit 75, being a statement entitled "Resurveys in the State of Michigan," signed by Moses Kelly, clerk, dated "General Land Office, Feb'y 14, 1851," being a general résumé of the correspondence between the Land Office and the surveyor general and the State of Michigan, and the action of Congress in making appropriations from time to time, the principal particulars of which are contained in Exhibits 57 to 74 inclusive, which report is found on pages 124 to 130 of the Record.

23. In admitting over plaintiff's objection, Exhibit 76, being the published report of the Commissioner of the General Land Office for the year 1850.

413 This report alludes to the discovery of errors and frauds in the surveys in southern Michigan, and says special instructions have been issued to the surveyor general to employ none but deputies of tried integrity and ability, and additional regulations are made regarding their bonds.

That with the approval of the Secretary of the Interior it had been decided to charge the surveyors general in those States where the office existed with the duty of making up in the first place the

lists of lands coming to the States under the "swamp-land act" of September 28, 1850, and that full instructions had been transmitted them for this purpose. Extended comments are made on the state of the resurveys in Michigan, particularly districts surveyed by Mr. Coon and Mr. Pattison in 1839, and Messrs. Sibly and Hodgson the latter districts being in the vicinity of Grand Traverse.

A recommendation is made for an appropriation of \$10,500 for resurveys for the year ending June 30, 1852. Annexed to the report is a diagram indicating town 18 N, R 3 W, as defectively surveyed. Extracts from the report are found on pages 130 to 134 of the Record.

24. In admitting in evidence over plaintiff's objection, Exhibit 77, being a letter dated March 5, 1851, from Surveyor General Noble to Commissioner Butterfield. Sends a diagram showing districts examined last year, districts examined by Mr. Burt in 1849, resurveys made the past season, and resurveys and corrections made by Wm. A. Burt. Suggests that it is important that defective surveys in Lower Peninsula be adjusted in some manner, either by entire resurvey or by resurvey where original is wanting and re-establishing and correcting the balance. Thinks latter method preferable where sales have been made, but otherwise better make entirely new survey without reference to the old work.

Complying with instructions submits a plan for resurveys for coming season: first, resurvey and correct surveys in Grand Island district and complete those near Grand Traverse bay; second, proceed with other resurveys as far as practicable with a view to completion of all unfinished surveys in the Lower Peninsula.

Commenting on instructions not to subdivide townships unfit for cultivation unless valuable for mineral, says usually cannot tell until survey is made the character of the town. When surveys now contemplated are completed there will be less than 80 towns remaining unsurveyed in the Upper Peninsula. Which letter is found on pages 134 to 136 of the Record.

25. In admitting in evidence over plaintiff's objection, Exhibit 78, being the reports of the Commissioner of the General Land Office and surveyor general for the year 1851, which states that the rectifying of defective surveys for which appropriations have been made, and the survey of islands is the concluding work prior to closing the surveyor general's office under the act, June 12, 1840.

That the execution of law granting swamp lands is occupying great attention, and in numerous instances it is found difficult to accurately detect the lands from the plats and field-notes of survey. Whenever the selections in any one district have been approved, patents will be issued excluding from the approved lists lands sold or otherwise disposed of.

In giving out contracts the present year special reference was had to closing out the surveys in the Upper Peninsula, so that nothing remains to be done but prosecute the resurveys as authorized by the department.

Acting under instructions of the General Land Office, the appro-



priations of last year and balance of the previous year had not been expended because certain suits pending against deputies and their bondsmen, who were implicated in the frauds in the public surveys. Surveyor general thinks that, irrespective of the suits, certain resurveys should be continued.

Considerable progress has been made in preparing lists of swamp lands, but some time was consumed in corresponding with  
415 the authorities of the State upon the subject of the manner in which the selection should be made. As swamps are not in large bodies, the work is slow, as nearly every section has to be laid off into 40-acre parcels, and many intricacies arise in drawing lines from the intersections, extracts from which report are found on pages 137 to 140 of the Record.

26. In admitting in evidence over the objection of the plaintiff, Exhibit 79, being a letter dated February 10, 1852, from Surveyor General Noble to Commissioner Butterfield, inclosing a report of Deputy Surveyor A. S. Wadsworth. The letter acknowledges receipt of a letter from the Commissioner of November 25, and incloses a diagram representing the townships already resurveyed, districts reported fraudulent, and states that the balance of the prosecution of the resurveys, should they be ordered without reference to the suits pending in the United States court, would be substantially as proposed in the letter of the 5th of March, 1851. He considers the district west of Saginaw bay of the first importance for resurvey, and continuing with districts near Grand Traverse bay, until all are completed. Commenting on certain rules sent in a letter from the Commissioner under date of June 25, last, he considers them of a restrictive character, and that it does not appear that the present practice of the office was in conflict of the principles therein contained, but thinks no instructions can meet the exigencies of every case, but much must be left to the judgment of the deputy. The employment of codeputies he considers involved with practical difficulties and productive of little good. In the mineral regions, where the solar compass is used, the most of the work must be done in fair weather, and that possibly there an assistant to run random lines might be useful. In disconnecting the examinations from the work of resurveys, the expense to the Government had been increased. In fixing the price for resurvey where the districts are near the coast, the maximum price of \$6 has not been allowed, but has been where the districts were in the interior. He recommends that, if a further examination of resurveys  
are deemed necessary, that they should be disconnected from  
416 resurveys or new surveys, and that in townships where sales had been made or lands are occupied, that the portions sold or occupied should be treated as private claims, and the new surveys run up to the boundaries of the parcels so occupied. Letter contains other remarks and comments upon the instructions, explaining why it is necessary to deviate from them from time to time, the whole matter being submitted to the judgment of the department. The report of Mr. Wadsworth bears date December 24, 1851, and purports to give a general view of the character of the country

running from Saginaw to Grand Traverse, and from Grand River to Grand Traverse, and towards the straits of Mackinaw, purporting to describe character of the timber, of the soil, and the amount of land which appears to be swampy and the amount which appears to be valuable for farming purposes. Some remarks are also made on the character of the climate at different points within this Territory, which letter and inclosure are found on pages 140 to 147 of the Record.

27. In admitting in evidence over plaintiff's objection, Exhibit 80, being a letter from Butterfield, Commissioner, to Noble, surveyor general, dated March 8, 1852, acknowledging a communication of the 10th ult. by the hands of Mr. Frost, the chief clerk, on the subject of the resurveys in this State, and divides the matter of the resurvey of the State into two classes, first, incomplete surveys, where a portion only of the lines of a township are found to be surveyed, but where some lines have been run and corners established, such portions as can be made available by retaining all remaining undisturbed. The second class are fraudulent surveys, where there is no evidence found of the good intent on the part of the deputy to comply with this contract, and an entire absence of the marks and monuments to designate corners, and no lines traceable. In this class of cases the lines and corners found are to be obliterated, except where parcels are occupied and the occupant insists on having the monuments preserved, in which case his requests shall be respected. Otherwise they are to establish  
417 new lines and new monuments, the work to be inspected before payment, to the satisfaction of the surveyor general, these inspections to be paid for at the *per diem* allowance, which exhibit is found on pages 147 to 149 of the Record.

28. In admitting in evidence over plaintiff's objection, Exhibit 81, being the published reports of the Commissioner of the General Land Office and surveyor general for the years 1852 to 1858, inclusive.

The reports for 1852 state the office labors of the surveyor general had been rendered onerous by the duty of selecting the swamp lands, and further that the descriptive notes often did not show all the swamp lands by reason of the surveys being made at dry seasons, or when the ground was frozen.

Much difficulty was also experienced by reason of numerous conflicts; no general suspension of sales being contemplated by the act, numerous entries were made of lands claimed by the State. To relieve this difficulty, recommends that authority be given to pay the money over to the State upon a proper relinquishment by the State, or where warrants or scrip had been used to authorize the State to locate a like amount elsewhere.

The lists returned are compared with the tract books, and where parcels disposed of prior to the passage of the act, they are annulled, and where after are suspended. The selections are then posted, and lists and diagrams prepared and sent to the governors of the several States.



The Commissioner estimates \$3,000 for resurveys for the year ending June 30, 1854.

The surveyor general recounts difficulties in making up the swamp-land list, and says those for the Kalamazoo and Ionia districts have already been forwarded, those for the Detroit, Flint and Sault St. Marie districts are in the hands of the register, and the Saginaw list has been returned from the register with the annotations, and will soon be forwarded.

Thinks changes in the lists or new lists will be required  
418 in some towns in the Grand River and Saginaw districts owing to the resurveys.

Of the 59 towns contracted for resurvey last season, 39 have been completed in a satisfactory manner, and confirms his opinion previously expressed, that representations of the old surveys that the lands were swampy and indifferent was incorrect, that it was found in some instances, that where the old survey set down lakes covering hundred of acres, none existed.

He reports that upwards of 60 towns east of the meridian are believed to be fraudulent.

The report for 1853 states that the delivery of patents is retarded by the adjustment of the swamp grant, owing to the imperfections of the field-notes, the numerous conflicts and complexity of the questions involved, and deems further legislation required to facilitate the adjustment. The matter also interfered with the adjustment of the recent railroad grant, the swamp land having first to be determined. An estimate of \$20,160 is made for resurveys for the year ending June 30, 1855.

The surveyor general states that in pursuance of an appropriation of \$5,000 for the correction of surveys in the Upper Peninsula, he appointed George H. Cannon for that work. The work of Wm. Hemmingway in 1851 had been examined and found defective. Mr. Cannon completed the work on four of the towns and then thought it advisable to consult with the surveyor general as to the balance, owing to its complex character. Mr. Cannon will be given instructions to proceed with the balance in the spring. In the Lower Peninsula, of the townships contracted for last season, ten were left uncompleted.

An inspector of surveys has examined districts north of the third correction line and west of the meridian, and that in those surveyed by James H. Mullett and John Hodgson, resurveys will be necessary. Makes some comments on errors found from time to time in the old surveys as to the character of the land described and inability to find the lines, and makes the same estimate for resurveys as is  
incorporated in the report of the Commissioner.

419 The report for 1854 states the surveyor general is pursuing the only plan by which the evils resulting from the fraudulent surveys can be overcome.

The surveyor general reports that he has estimated for the resurvey of 30 townships in the Lower Peninsula and 13 in the Upper, and says it will be necessary to make other surveys than those now estimated for, but they will be left until the next season.

The making up of the lists of swamp lands has been completed with the exception of the towns the surveys of which were but recently approved.

The estimate for surveys in the Lower Peninsula for the year ending June 30, 1856, is \$10,800.

In the report for 1855 the surveyor general states that immediately on being advised of the passage of the appropriation of August 4, 1854, continuing resurveys, he immediately offered contracts, but was only able to make a contract with Mr. Cannon for the resurvey of 17 towns, but he was prevented from work by the cold, boisterous weather, and resumed work in the spring, when also contracts were let for the resurvey of 56 towns.

In statement I, attached, under date of November 1, 1855, Chapman, surveyor general, says it is intended to contract the work of resurveys in towns 18, 19 and 20 north, ranges 1, 2 and 3 west, as fast as appropriations will permit. Statement K purports to exhibit the work of the office still to be completed before transferring the records to the State.

He makes an estimate for resurveys for the year ending June 30, 1857, of \$9,750.

The report for 1856 says it has been determined to complete the resurveys of about 75 towns, the greater portion of which are included in outstanding contracts, and it is contemplated that the records can be transferred to the State by September 30, 1857.

The surveyor general expresses a similar opinion as to closing the office and transferring the records, but desires to be understood that he thinks there are yet districts which should be resurveyed.

The report for 1857 states that the act of March 3d, 1857, had ended many of the conflicts in the adjustment of the swamp grant, which was now rapidly progressing.

It is recommended that a limit be fixed within which the swamp selections must be made.

The adjustment of the railroad grants also involved a great amount of labor. The proceeding was as follows: The lands within the railroad limits are withdrawn from sale; after the grants have been accepted by the States, they were usually conferred upon some company, which latter caused a map to be filed in the land office, duly approved by the governor.

If the line laid down is in accordance with the act of Congress, it is then laid down in the official township plats.

From this and the ledgers or tract books, the adjudications are made and the granted lands listed, and the balance returned to market.

As to surveys thus reported that the original surveys of islands in the western part of the Lower Peninsula had been made, the surveyor general's office transferred from Detroit to St. Paul, Minn., and the greater portion of the archives transferred to the Michigan State authorities.

Attached to this report are statements stating that plats of 18 north, 3, 4 and 5 west, sent the Commissioner February 12, 1857,

but none sent register, and another table showing completion of Cannon's surveys.

The report for 1858 refers to preceding reports for the method of adjustment of railroad grants, and that sales, locations, pre-emptions and swamp selections are entered on ledgers, and tested before preparation of lists are made; all of which involves great labor, and many and conflicting interests arise for examination.

Extracts from these reports are found on pages 149 to 168 of the Record.

29. In admitting in evidence over the objection of the plaintiff, Exhibit 82, being a letter dated June 11, 1847, from Lucius Lyon, surveyor general, to Richard N. Young, Commissioner, stating that in compliance with a request for a computation of the number of acres of swamp land in each district, but a mere approximation to accuracy can be given, as the old surveys show the swamp only at the intersection with the lines of survey. Not having the Ohio surveys in his possession, he will confine his estimates to Indiana and Michigan. The letter is set out in full on pages 168 and 169 of the Record.

30. In admitting in evidence over the plaintiff's objection, Exhibit 83, being a letter dated June 7, 1853, from John Wilson, Commissioner, to the surveyor general at Detroit, stating that in adjusting the swamp selections in the Grand River district a difficulty had arisen over the supplemental list dated December 8, 1852. The surveyor general, under date October 4 last, had been instructed to make out these lists in lieu of the former ones. Which in the heading of the list was evidently lost sight of. In certain towns the selections are the same, while in others the supplemental list contains fewer selections. The Commissioner inquires which is to govern, the original or the supplemental list? Whether the supplemental list is to — considered corrective or to be taken in lieu of the original. The letter is to be found in full on pages 169 and 170 of the Record.

31. In admitting in evidence over plaintiff's objection, Exhibit 84, being a letter dated July 29, 1853, from John Wilson, Commissioner, to the register at Detroit, transmitting certified copy of approved list No. 1 in his district, and containing instructions as to how the entries concerning should be made in the tract book and in the plats of his office, and to advise the Commissioner of any errors, etc., he may find, which letter is found on pages 170 and 171 of the Record.

32. In admitting in evidence over the plaintiff's objection, Exhibit 85, being a letter dated July 30, 1853, from John Wilson, Commissioner, to the register at Detroit, transmitting list A, 422 No. 1, of his district, showing selections of swamp land rejected as being disposed of prior to the grant, and instructing him as to the manner of making the entries in connection of the entries made from the surveyor general's list, on the books of the office, which letter is found on pages 171 and 172 of the Record.

33. In admitting in evidence over plaintiff's objection, Exhibit 86, being a letter dated September 5, 1863, from J. M. Edmunds,

Commissioner, to the register at Ionia, Michigan, stating that certain descriptions were confirmed selections, and would be approved to the State; that certain others though selected would not be approved, as they did not appear in the list subsequently made by the surveyor general to supersede the previous list, but they must be restored to market in the usual way before they will be subject to private entry, which letter is found on page 172 of the Record.

34. In admitting in evidence over plaintiff's objection, Exhibit 87, being a letter dated September 19, 1854, from John Wilson, Commissioner, to Chapman, surveyor general, Detroit, inclosing an affidavit of O. M. Barnes, relating to the character of certain lands in the Ionia district, and that Mr. Barnes had been advised that if the swampy character of the land was doubtful, he would be permitted to contest the claim of the State, and that from an examination of the plats and field-notes the Commissioner thinks there is doubt, which letter is found on page 173 of the Record.

35. In admitting in evidence over plaintiff's objection, Exhibit 88, being the reply of Surveyor General Chapman, dated September 27, 1854, to the preceding letter, stating that in determining the swamp lands enuring to the State the instructions of November 21, 1850, had been followed, the State having accepted the field-notes and plats as the basis of selections. That this course was followed in making up the lists. In the case in question there are three ways of drawing the lines, which he illustrates by a diagram annexed to the letters. The selections are based on a survey 423 made in 1826, and the land may then have been of the character granted. Some defects in the affidavit of Mr. Barnes are pointed out, and on the whole is of the opinion that the swamp selection is correct, which letter is found on pages 175 and 176 of the Record.

36. In admitting in evidence over plaintiff's objection, Exhibit 89, being a letter dated October 6, 1854, from John Wilson, Commissioner, to Chapman, surveyor general, acknowledging receipt of the letter (the preceding assignment) stating none of the three ways of connecting the swamps as indicated in the diagram appear to be proper. In this case he has decided to give Mr. Barnes an opportunity of furnishing evidence as to the character of the land in question, and indicates the character of the testimony to be furnished, which letter is found on pages 176 and 177 of the Record.

37. In admitting in evidence over plaintiff's objection, Exhibit 90, being a letter dated September 18, 1852, from Surveyor General Noble to Commissioner Butterfield, calling attention to the purchase of a tract by Mr. Bartlett of the register at Kalamazoo, prior to the receipt of the swamp lists. That nothing had been heard from the register at Detroit, Flint and Sault Ste. Marie, in reference to the lists in their hands for annotation.

A supplemental list embracing all new surveys will be furnished the Commissioners at an early day, and inquires in regard to towns resurveyed, which will govern, the old or new surveys, which letter is found on pages 177 and 178 of the Record.

38. In admitting in evidence over plaintiff's objection, Exhibit

91, being a letter dated October 4, 1852, from John Wilson, Commissioner, to Noble, surveyor general, requesting him to re-examine his notes and plats as to the tract desired by Mr. Bartlett, and if swamp advise him that the same is not subject to entry and if not to report to the Commissioner's office, and to do the same as to the parcels sold by the register at Kalamazoo. That in making out

supplemental lists he should make three copies, one for himself, the register and for the Commissioner; that in towns resurveyed he should make new lists of selections, designating the lists as being in lieu of the former ones, which letter is found at pages 178 and 179 of the Record.

39. In admitting in evidence over plaintiff's objection, Exhibit 92, being a letter dated June 24, 1853, from Surveyor General Chapman to Wilson, Commissioner, acknowledging receipt of a letter of June 7: that in making up the supplemental list it should have been stated at the head of the list or in the letter of transmissal, that it was in lieu of the former list, that such lists were made up without reference to the old lists or plats. The question as to which list should govern he supposed would be decided by the Commissioner, but thinks the supplemental list should govern, and that hereafter it will be so considered, which letter is found on pages 179 and 180 of the Record.

40. In admitting in evidence over objection of plaintiff, Exhibit 93, being a letter dated October 29, 1853, Surveyor General Chapman to Commissioner Wilson, transmitting supplemental list No. 2, Grand River district, which letter is found on pages 180 and 181 of the Record.

41. In admitting over plaintiff's objection, Exhibit 94, being a letter dated November 7, 1853, Commissioner Wilson to Surveyor General Chapman, acknowledging receipt of the list contained in the foregoing letter, and that the original list will be altered to conform to it, which letter is found on page 181 of the Record.

42. In admitting in evidence over plaintiff's objection, Exhibit 95, being a letter dated January 31, 1855, Surveyor General Chapman to Commissioner Wilson, transmitting list of swamp lands in Cheboygan land district, surveyed and platted up to January 15, 1855. With this list he believes descriptions of swamp lands in every township in the State had been transmitted the Commissioner, and asks if it will be proper to furnish new lists as heretofore of lands hereafter resurveyed, which letter is found on pages 181 and 182 of the Record.

425 43. In admitting in evidence over plaintiff's objection, Exhibit 96, being a letter dated February 12, 1855, Wilson Commissioner, to Chapman, surveyor general, acknowledging receipt of the lists contained in the last letter, and advising him that it will be necessary to continue to furnish the lists as heretofore, which letter is found on page 182 of the Record.

44. In admitting in evidence over plaintiff's objection, Exhibit 97, being the published report of the commissioner of the Michigan State land office for the year ending September 30, 1852, which states that no lists had yet been received of the swamp lands; gives

a letter from the General Land Office, dated November 2, 1852, on the subject, which, referring to an application to have certain lands approved in advance of the regular lists, which lands were in three different land districts, states that a rule had been established not to take action on isolated tracts without taking action on the entire list in that district, as it would retard the final adjustment, but the matter of selections would be acted upon at the earliest possible period. Extracts from which reports are found on pages 183 and 184 of the Record.

45. In admitting in evidence over plaintiff's objection, Exhibit 98, being a letter dated January 20, 1854, Commissioner Wilson to Governor Parsons of Michigan, requesting that he cause to be erased from approved list No. 1, Kalamazoo district of swamp lands, a certain tract erroneously approved, the lands being sold in 1836, to enter in place of it the tract intended to be approved, and to advise the General Land Office of the corrections, which letter is found on page 184 of the Record.

46. In admitting in evidence over plaintiff's objection, Exhibit 99, being a letter dated January 30, 1854, Governor Parsons to John Wilson, Commissioner, acknowledging the preceding letter and advising that the corrections had been made, which letter is found on page 185 of the Record.

47. In admitting in evidence over plaintiff's objection, Exhibit 100, being a letter dated February 24, 1854, Commissioner Wilson to Governor Parsons, requesting him to cause the copy of approved list No. 4, Genesee district, swamp lands, to be corrected by erasing certain descriptions, and in place thereof inserting certain others, and advise the General Land Office if done, which letter is found on pages 185 and 186 of the Record.

48. In admitting in evidence over plaintiff's objection, Exhibit 101, being a copy of Ionia approved list No. 4, from the State land office, showing erasures in the list with reference to the Commissioner's letter of February 24, 1854 (Exhibit 100, p. 185), which list is found on pages 186 to 188 of the Record.

49. In admitting in evidence over plaintiff's objection, Exhibit 102, being a letter dated March 31, 1854, from Commissioner Wilson to Governor Parsons, requesting him to cause certain corrections to be made in the copy of Genesee approved list No. 1, by erasures and insertion of descriptions, and as to certain others, inasmuch as they had been disposed of by the General Government subsequent to September 28, 1850, to mark them "Suspended," and to advise the General Land Office of the corrections, which letter is found on pages 188 to 189 of the Record.

50. In admitting in evidence over plaintiff's objection, Exhibit 103, being Genesee approved list No. 1, from the State land office, showing the corrections and annotations requested in the Commissioner's letter, March 31, 1854, with reference to the same, which list is found on pages 190 to 192 of the Record.

51. In admitting in evidence over plaintiff's objection, Exhibit 104, being a letter dated April 25, 1854, from Commissioner Wilson to Governor Parsons, requesting him to cause the copy of Genesee



approved list No. 2 to be corrected by erasing certain descriptions, adding others and changing other items, and to advise the General Land Office of the corrections, which letter is found on pages 192 and 193 of the Record.

52. In admitting in evidence over plaintiff's objection, Exhibit 105, being Genesee approved list No. 2, from the State land office, showing the erasures, corrections and additions requested 427 in the Commissioner's letter of April 25, 1854 (Exhibit 104), which list is found on pages 194 to 196 of the Record.

53. In admitting in evidence over plaintiff's objection, Exhibit 106, being a letter dated May 19, 1854, from Commissioner Wilson to Governor Parsons, requesting that certain erasures, corrections and annotations be made on the copy of Genesee approved list No. 3, and to report the same to the General Land Office, which letter is found on page 197 of the Record.

54. In admitting in evidence over plaintiff's objection, Exhibit 107, being Genesee approved list No. 3, showing the erasures, corrections and annotations requested by the Commissioner's letter of May 19, 1854, with reference to the same, which letter is found on pages 198 to 200 of the Record.

55. In admitting in evidence over plaintiff's objection, Exhibit 108, being a letter from Commissioner Wilson to Governor Parsons, dated July 1, 1854, requesting that certain corrections be made in the copy of the approved list No. 3, Sault St. Marie district, and that the General Land Office be notified of the corrections, which letter is found on page 200 of the Record.

56. In admitting in evidence over plaintiff's objection, Exhibit 109, being a letter from Governor Parsons to Commissioner Wilson, dated July, 1854, which acknowledges receipt of the letter of Commissioner Wilson of July 1, 1854 (Exhibit 108), and advises him that the corrections requested have been made, which letter is found on page 201 of the Record.

57. In admitting in evidence over plaintiff's objection, Exhibit 110, being surveyor general's list No. 1, Grand River district, from the State land office, so far as it relates to towns 18 north, 3 and 4 west, which exhibit is found on pages 201 to 206 of the Record.

58. In admitting in evidence over plaintiff's objection, Exhibit 111, being approved list No. 1, Ionia district, from the State land office of Michigan, so far as it relates to towns 18 north, 3 428 and 4 west, which exhibit is found on pages 207 to 211 of the Record.

59. In admitting in evidence over plaintiff's objection, Exhibit 113, being the patent of the United States to the State of Michigan, known as Ionia No. 2, so far as relates to the lands in town 18 north and 4 west, which exhibit is found on pages 212 to 214 of the Record.

60. In admitting in evidence over plaintiff's objection, Exhibit 114, being field-notes of the resurvey of sections in township 18 north, range 3 west, involved in the declaration in this cause, which exhibit is found on pages 214 to 228 of the Record.

61. In admitting in evidence over plaintiff's objection, Exhibit 39—331

115, being a letter from Surveyor General Noble to Commissioner Butterfield, dated April 21, 1852, referring to the letter of the Commissioner of April 13. States that the certificate in the Kalamazoo list does not appear to admit of doubtful construction, and incloses a new certificate for the Grand River list to be substituted for the original, and that the lists as near as practicable be made up strictly in accordance with the instructions of the Commissioner; that the remaining lists would be made up leaving out the tracts sold prior to September 28, 1850, which letter is found on page 229 of the Record.

62. In admitting in evidence over plaintiff's objection, Exhibit 116, being a letter from Alexander F. Bell, register of Ionia land office, to the Commissioner of the General Land Office, dated September 23, 1854, inquiring whether lands appeared to have been on the maps of the old survey to have been selected by the surveyor general as swamp lands, and not appearing on the maps of the resurvey and in the approved list as swamp lands, are subject to private entry at his office, which letter is found on page 230 of the Record.

63. In admitting in evidence over plaintiff's objection, Exhibit 117, being a letter from Commissioner Wilson to the register of the land office at Ionia, dated October 3, 1854, and stating 429 that he should regard all selections by the surveyor general as valid until furnished by him with lists designated, "In lieu of the originals in townships resurveyed and platted," and where lands have been approved according to the old plats, no action could be taken by the register until the claim of the State has been rejected, which letter is found on pages 230 and 231 of the Record.

64. In admitting in evidence over plaintiff's objection, Exhibit 118, being the published reports for the year ending November 30, 1856, by the commissioner of the State land office, stating that patents had been received for all the swamp lands in the State, except those in the Ionia land district, comprising about 1,200,000 acres, which patents had been delayed by reason of the resurveys. Referring to the application for the purchase of particular descriptions, he says, they have been denied because no valid sale could be made until the State's title had been confirmed by a patent from the United States. Speaking of the character of these lands, he says, It is well known that many tracts are now considered among the best farming lands in the State, and others valuable for timber. Extracts from which report are found on pages 231 and 232 of the Record.

65. In admitting in evidence over plaintiff's objection, Exhibit 119, being a letter from Commissioner Wilson to Governor Bingham, dated February 24, 1855, requesting the suspension of action on Ionia approved lists Nos. 2 and 3, because surveyor general had transmitted to the Commissioner certain lists in the Cheboygan district in townships resurveyed and platted, which lists he states, "abrogates and supersedes all lists of swamp lands heretofore made of the townships contained in it," giving a list of the towns affected, which letter is found on pages 232 and 233 of the Record.



66. In admitting in evidence over plaintiff's objection, Exhibit 120, being the report for the year ending November 30, 1855, of the commissioner of the State land office, which states that no sales or public offering had been made during the past year of the lands embraced in the lists heretofore received, as patents had not been issued for the same. The patents that had been received embraced lands in the Detroit, Genesee and Kalamazoo districts. Where conflicts had arisen by reason of the sale of the lands subsequent to September 28, 1850, by the General Land Office, such descriptions had been omitted from the patents, and the purchasers had filed applications with the State, under the State act of February 14, 1853, and February 15, 1855, to purchase lands, but the State had been unable to confirm their title. That a list of the sales made by the State had been sent to Washington for the purpose of comparison under the act of Congress of March 2, 1855, and that the office was advised that the State, having accepted the grant on the bases of the notes of survey, no further proof would be required to obtain the benefits of the act of Congress of March 2d, 1855. Referring to the fact of the resurveys being then prosecuted in the Ionia district, he is unable to state what material difference will be made thereby. Extracts from which reports are found on pages 233 to 235 of the Record.

67. In admitting in evidence over plaintiff's objection, Exhibit 121, being a letter from Commissioner Edmunds, dated June 18, 1864, referring to certain selections, stating that they were made from the field-notes of the old surveys, and most of the selections in those towns were approved and patented to the State on the old surveys prior to the receipt of the selections based on the new surveys. Supplemental list D being such a list. And the office had decided that, having acted upon one, they would ignore the other, and, therefore, the original list based on the old surveys should govern in those townships, which letter is found *is found* on pages 235 and 236 of the Record.

68. In admitting in evidence over plaintiff's objection, Exhibit 122, being the report of the Commissioner of the General Land Office for 1864, calling attention to the discrepancies in swamp-land selections of Michigan, arising from the resurvey of certain townships, and the fact that prior to the reception of the lists based on the resurveys, approvals and patents had been made on the old surveys, and suggests that, in order to remove the difficulty, the State relinquish her title to the tracts accrued under the old surveys, taking lands described as swamp in the new surveys. Extracts from which report are found on pages 237 of the Record.

69. In admitting in evidence over plaintiff's objection, Exhibit 123, being the plat or resurvey of township 18 north, range 3 west, in the State of Michigan, which plat is found opposite page 237 of the Record.

70. In admitting in evidence over plaintiff's objection, Exhibit 124, being surveyor general's supplemental list No. 3, Grand River district, from the State land office, so far as relates to towns. 18

north, ranges 3 and 4 west, which list is found on pages 238 to 240 of the Record.

71. In admitting in evidence over plaintiff's objection, Exhibit 125, being a letter from Surveyor General Emerson to Commissioner Hendricks, dated May 12, 1858, transmitting supplemental lists of swamp selections in the Cheboygan, Grand River and Saginaw land districts of townships resurveyed and platted since the dates of the last supplemental lists, which lists complete the swamp-land lists, with the exception of certain towns yet requiring corrections, which letter is found on page 241 of the Record.

72. In admitting in evidence over plaintiff's objection, Exhibit 126, being a letter from Commissioner Hendricks to Surveyor General Emerson, dated May 20, 1858, acknowledging receipt of the lists referred to in the letter of May 12, 1858 (Exhibit 125), which letter is found on pages 241 and 242 of the Record.

73. In admitting in evidence over plaintiff's objection, Exhibit 127, being approved list No. 10, Ionia land district, from the State land office, so far as it relates to towns 18 and 28 north, range 3 west, which exhibit is found on pages 242 to 244 of the Record.

74. In admitting in evidence over plaintiff's objection, Exhibit 432, being a letter from Commissioner Edmunds to the governor of Michigan, dated May 26, 1866, transmitting a copy of approved list No. 10, Ionia district, and requesting the governor to transmit his requests for patents for the lands contained in it, which letter is found on pages 244 and 245 of the Record.

75. In admitting in evidence over plaintiff's objection, Exhibit 129, being a letter from Governor Crapo of Michigan to Commissioner Edmunds, dated May 31, 1866, acknowledging the receipt of approved list No. 10, Ionia district, and requesting that patents might issue for the same, which letter is found on page 245 of the Record.

76. In admitting in evidence over plaintiff's objection, Exhibit 130, being patent of the United States to the State of Michigan, No. 20, Ionia district, so far as it relates to townships 18 and 28 north, range 3 west, which patent is found on pages 246 to 248 of the Record.

77. In admitting in evidence over plaintiff's objection, Exhibit 131, being a letter from Commissioner Drummond to the governor of Michigan, dated March 25, 1873, acknowledging receipt of a letter of the governor's of the 4th inst., asking that certain lands be patented to the State as swamp lands, and advising him that the records show the lands to have been selected in 1852, and shortly afterwards approved, but never patented to the State. Resurveys having been ordered for the townships referred to, new lists were reported which do not contain the descriptions mentioned, and are therefore not recognized by the office as swamp selections. Those in the townships selected by the resurvey are suspended because contained in an Indian reservation, which letter is found on pages 248 and 249 of the Record.

78. In admitting in evidence over plaintiff's objection, Exhibit 132, being a letter from Commissioner State Land Office Clapp to

Commissioner Burdett, dated April 15, 1875, transmitting a list of swamp and overflowed lands, contained in supplemental list C,

433 Cheboygan district, of the townships resurveyed, calling attention to the removal of the reservation for Indian purposes, and requesting that the list of lands be approved and patented to the State at an early day, which letter is found on pages 249 and 250 of the Record.

79. In admitting in evidence over plaintiff's objection, Exhibit 133, being letter from Acting Commissioner Curtis to the governor of Michigan, dated November 10, 1875, acknowledging the receipt of a letter of October 28, calling attention to a list of lands in townships 35 and 36 north, range 3 west, and stating that they being found free from conflict, they had been submitted to the Secretary of the Interior for approval to the State as swamp lands, which letter is found on page 250 of the Record.

80. In admitting in evidence over plaintiff's objection, Exhibit 134, being approved list No. 22, Traverse City district, the same covering towns 35 and 36 north, range 3 west, which exhibit is found on pages 251 to 254 of the Record.

81. In admitting in evidence over plaintiff's objection, Exhibit 135, being a patent from the United States to the State of Michigan, No. 35, covering descriptions in towns 35 and 36 north, range 3 west, which exhibit is found on pages 255 to 257 of the Record.

82. In admitting in evidence over plaintiff's objection, Exhibit 136, being a letter from Commissioner of the State Land Office Clapp, to Commissioner Drummond, dated April 30, 1874, transmitting for examination a list of lands contained in supplemental list No 3, Grand River district, in townships resurveyed, requesting the approval of each parcel, and that patents be issued; or, if that cannot be done, the State may receive indemnity therefor. The lists inclosed covers selections in towns, 18 north and 3 west, and a large number of other towns, which exhibit is found on pages 258 to 263 of the Record.

83. In admitting in evidence over plaintiff's objection, Exhibit 137, being a letter from Commissioner Burdett to Commissioner of the State Land Office Clapp, dated June 15, 1874, acknowledging the receipt of a list contained in a letter of Commissioner Clapp, of April 30, 1874 (Exhibit 136), and stating that as to certain townships the greater part of the selections were made and approved under the old survey, and as to those the old selections must govern. That as to certain other of the descriptions a portion had been located by land warrants, and others had been approved to the State for railroad and canal purposes, and others sold prior to the swamp grant of September 28, 1850, and that other tracts appear to be vacant and would be submitted to the Secretary of the Interior for his approval, which letter is found on pages 263 to 267 of the Record.

84. In admitting in evidence over plaintiff's objection, Exhibit 138, being a letter of Clapp, commissioner of the State land office, to Commissioner Burdett, dated August 12, 1875, referring to the letter of Commissioner Burdett, dated June 15, 1874 (Exhibit 137),

requesting that the lands noted in the Commissioner's letter as appearing vacant might be submitted for approval without further delay, and inclosing a list of lands, which letter is found on pages 267 and 268 of the Record.

85. In admitting in evidence over plaintiff's objection, Exhibit 139, being a letter from Acting Commissioner Curtis to Commissioner of the State Land Office Clapp, dated September 13, 1875, acknowledging receipt of Commissioner Clapp's letter of August 12, 1875 (Exhibit 138), advising him that certain tracts were included in Ionia list No. 20, and that certain other of the tracts were submitted to the Secretary of the Interior for approval on the 10th inst., which letter is found on pages 269 and 270 of the Record.

86. In admitting in evidence over plaintiff's objection, Exhibit 140, being copy of approved list No. 20, Ionia district, so far as relates to certain descriptions in town 18 north, 3 west, which list is found on pages 270 and 271 of the Record.

87. In admitting in evidence over plaintiff's objection, Exhibit 141, being a patent from the United States to the State of Michigan, No. 34, for certain swamp lands in town 18 north, 3 west, the same lands contained in Exhibit 140, which patent is found on pages 271 and 272 of the Record.

88. In admitting in evidence over plaintiff's objection, Exhibit 142, being a certificate of the commissioner of the State land office, dated June 16, 1892, from which it appears that certain lands in towns 18 north, ranges 3 and 4 west, and other towns are not found in any approved list, nor included in any patent of the United States to the State of Michigan on file in the State land office; and further, that no swamp lands in township 18 north, range 3 west, are included in any approved list on file in that office, except Ionia No. 1, No. 10 and No. 20, or in any patent, except patents No. 20 and No. 34, and reciting similar facts as to other lands not involved in the declaration in this case. Which certificate is found on pages 273 and 274 of the Record.

89. In admitting in evidence over plaintiff's objection, Exhibit 143, being a letter of the register and receiver of the United States land office at Detroit to the commissioner of the State land office, dated September 10, 1877, transmitting a copy of a letter from the Commissioner of the General Land Office to the register and receiver, dated September 6, 1877, and advising the State that it has 60 days to appeal from the decision of the department contained in this letter of the Commissioner referring to certain tracts of land included in homestead entries found in conflict with the claim of the State. Says that the lands were embraced in supplemental list D, and stating that the lands were in towns approved and patented, based on the old survey, and that for that reason the claim of the State to the particular parcels had been rejected, which letter is found on pages 274 to 276 of the Record.

90. In admitting in evidence over plaintiff's objection, Exhibit 144, being a letter dated June 26, 1880, from Commissioner Williamson to the governor of Michigan, advising him of the receipt

of a letter of the 17th inst. inclosing a list of lands in township 24 north, range 1 west, claimed as belonging to the State under the swamp grant, and stating that the list referred to was superseded by lists made on the resurveys, and as these lists do not include the lands claimed by the State, they were not recognized as swamp selections, and that the land on the odd-numbered sections had all been certified to the State for railroad purposes, which letter is found on pages 276 and 277 of the Record.

91. In admitting in evidence over plaintiff's objection, Exhibit 145, being a letter dated July 27, 1881, from Governor Jerome to Secretary of the Interior Kirkwood, inclosing a list of lands which had been approved to the State, and requesting patents therefor, which letter and the list inclosed is found on pages 277 and 278 of the Record.

92. In admitting in evidence over plaintiff's objection, Exhibit 146, being a letter from Commissioner McFarland to the governor of Michigan, dated August 27, 1881, acknowledging receipt of the letter of Governor Jerome of July 27, 1881 (Exhibit 145), stating in reply that the records of the office showed that certain of the descriptions had been selected and approved as swamp lands, but before patent had been issued resurveys had been made and a new list prepared, in which the parcels do not appear as swamp lands, and therefore they could not be treated as such. That another description had already been patented to the State, erroneously, as being land confirmed to purchasers under the United States, under the act of March 3, 1857, and that certain of the remaining tracts would be patented to the State at an early day, which letter is found on pages 278 and 279 of the Record.

93. In admitting in evidence over plaintiff's objection, Exhibit 147, being a letter from Governor Jerome to Commissioner of the General Land Office, dated March 20, 1882, inclosing a letter from the commissioner of the State land office, together with the list of lands for which a patent was requested, a letter of the commissioner of the State land office, dated March 18, 1882, asking the governor to request patents on the inclosed, which letter and its inclosures are found on pages 280 and 281 of the Record.

94. In admitting in evidence over plaintiff's objection, Exhibit 148, being a letter from Commissioner McFarland, to the governor of Michigan, dated March 29, 1882, acknowledging receipt of the governor's letter of the 20th inst. (Exhibit 147) stating that certain of the descriptions had been sold by the General Government prior to 1850, that others of the tracts are reported as swamp selections, May 12, 1858, were November 12, 1867, selected for the Jackson, Lansing & Saginaw railroad for railroad purposes, and the State's claim to the same lands under another grant would not be recognized. That another parcel does not appear on the plats of the Government survey; that other parcels have not been selected as swamp lands, and that the remaining parcels do not appear in the lists found on the resurveys in the respective townships, and for that reason the request of the governor cannot be complied with, which letter is found on pages 281 and 282 of the Record.

95. In admitting in evidence over plaintiff's objection, Exhibit 149, being a letter from Commissioner Sparks to the register and receiver at Detroit, dated March 25, 1887, stating that certain descriptions upon which homestead entries had been made were suspended for conflict with apparent claim of the State of Michigan under the swamp grant. Which descriptions were contained in supplemental list D, transmitted after the resurveys in those towns, but in which towns the greater portion of lands had been carried into patents based on the old survey prior to the reception of the supplemental list, and that therefore the selections in the supplemental list would not be recognized, the claim of the State based on the supplemental list would be held for rejection, and they are requested to notify the State authorities of the usual time for appeal, which letter is found on pages 283 and 284 of the Record.

438

96. In admitting in evidence over plaintiff's objection, Exhibit 150, being a letter from Commissioner Sparks to register and receiver at East Saginaw, dated November 8, 1887, stating that as to a certain description embraced in a cash entry at that office it appears to be claimed by the State of Michigan as swamp lands, which claim is founded on a selection made December 24, 1852, subsequent to which time a resurvey was made and a new list prepared, which did not contain the description involved. The field-notes do not show the parcels to be swamp and overflowed within the meaning of the grant, not being approved or patented to the State, claim of the State is held for rejection, and the register and receiver are requested to notify the governor of the State, which letter is found on page 285 of the Record.

97. In admitting in evidence over plaintiff's objection, Exhibit 151, being a letter from Commissioner Wilson to the register and receiver at Ionia, dated January 30, 1868, and Exhibit 151 A, being a letter from Commissioner Wilson to the register and receiver at Ionia, dated July 30, 1869.

Exhibit 151 being the decision of the Commissioner rejecting the entries of Addison P. Brewer and others for lands in 18, 19 and 20 north, range 3 west, their entries being contested by the Flint & Pere Marquette and Jackson, Lansing & Saginaw Railroad Companies, and Messrs. Remick and Merrill. These lands were selected by the State in 1852 as swamp lands, and in 1857 a resurvey was made of the townships, and a new list prepared in 1858. The railroad companies claim the land under the act of Congress of June 3d, 1856. The lands in dispute were within the fifteen-mile limits of the several roads, and the indemnity selections were certified to the roads in 1859, 1862 and 1864. Mr. Remick in 1854 and Mr. Merrill in 1863, had applied to enter the lands, at the United States Land Office. The applications of Brewer and others were made at the United States Land Office in 1866. The Commissioner holds that at the time of the adjustment of the railroad grant, and at the time of the application for entry of Messrs. Remick and Merrill, the selections of the State in 1852 operated as a withdrawal of the lands from public entry, and not subject to disposal under the terms of the railroad grant. The lands being re-

439



surveyed and a new list made, the selections of the State must be considered as having been relinquished, and the lands should now be restored to market after public notice and the location canceled. Parties were allowed thirty days in which to appeal to the Secretary of the Interior.

Exhibit 151 A advises the register and receiver of the affirmation of the decision of the Commissioner by the Secretary of the Interior, and directs them to return the scrip, cash or warrants upon which the entries were made to the proper parties, note the cancellation of the entries on the book of the office, and to offer the lands at public sale in the usual manner, which exhibits are found on pages 286 to 291 of the Record.

98. In admitting in evidence over plaintiff's objection, Exhibit 152, being a letter from W. R. Wood, chief clerk of the surveyor general's office, dated May 13, 1858, stating the surveyor general left day before with maps, field-notes, etc., of the surveys in Michigan to be transferred to the State authorities, and that he had mailed to the Commissioner's address the original supplemental lists in the Cheboygan, Grand River and Saginaw land districts, made up from the resurveys since the date of the last supplemental lists for those districts, which latter lists had been transferred to Michigan authorities in May, 1857, which letter is found on pages 291 and 292 of the Record.

99. In admitting in evidence over plaintiff's objection, Exhibit 153, being from the State land office of Michigan, original supplemental list E of swamp lands in the Cheboygan district, which list is found on pages 292 and 293 of the Record.

100. In admitting in evidence over plaintiff's objection, Exhibit 154, being from the State land office of Michigan, approved list No. 11, of swamp lands in the Ionia district, which exhibit is found on pages 294 to 297 of the Record.

440 101. In admitting in evidence over plaintiff's objection, Exhibit 155, being a letter from Governor Crapo to Commissioner Edmunds, dated June 20, 1866, acknowledging the receipt of a copy of approved list No. 11, and requesting that patents issue for the same, which letter is found on page 298 of the Record.

102. In admitting in evidence over plaintiff's objection, Exhibit 156, being copy of patent of the United States to the State of Michigan, No. 22, covering lands in towns 28 north, range 4 west, and 24 north, range 9 west. The same lands as are included in approved list No. 11 (Exhibit 154), which patent is found on pages 298 to 301 of the Record.

103. In admitting in evidence over plaintiff's objection, Exhibit 157, being a letter of James W. Sanborn, commissioner of the State land office to Governor Wisner, dated April 5, 1859, inclosing to the governor a copy of the letter of Commissioner Hendricks to Treadwell, commissioner of the State land office, dated December 18, 1858, and lists of towns inclosed in the latter letter. Also other documents showing the difference in the acreage of swamp lands under the old and the resurveys. In certain towns showing a decrease by the resurvey of over 78,000 acres, and in the lands already

patented to the State a difference of 235,000 acres. Other documents are included showing the difficulty in locating the lands described in the patents by reason of the discrepancies in the two surveys, and submitting the whole matter to the governor for his advice in the premises, which letter is found on pages 302 and 303 of the Record.

104. In admitting in evidence over plaintiff's objection, Exhibit 158, being a report of the committee on public lands from the legislature of the State of Michigan of 1861, together with statement B attached to that report. The committee report that the policy heretofore inaugurated to reclaim the swamp lands by means of

roads and ditches, meets with their approval, and suggests  
441 certain amendments in the act of the legislature of 1859, inaugurating such disposition of lands. The amendments are by way of saving expense and a change in the method of selecting lands by contractors, allowing them to take lands in lieu of the money, and not be confined to the lands within the county in which the work was being done. That the house may better understand the situation, table B has been procured and submitted, from which the total amount of lands granted to the State in the respective counties may be ascertained and the amount for which patents have been received, together with the total acreage of the grant. They also suggest some changes in the methods of granting lands to occupants and settlers under the homestead license, and present a bill for that purpose, which report and table referred to are found on pages 303 to 308 of the Record.

105. In admitting in evidence over plaintiff's objection, Exhibit 159, being a letter from Samuel S. Lacey, commissioner of the State land office, to Commissioner Edmunds, dated July 10, 1861, inclosing statement B, as attached to the report contained in Exhibit 158, asking when the lands appearing to have been unpatented may be patented to the State of Michigan, which letter is found on page 308 of the Record.

106. In admitting in evidence over plaintiff's objection, Exhibit 160, reports of the commissioners of the State land office for the years 1860 to 1878 inclusive.

The report for 1860 states that the complications relating to the swamp lands between the State and General Government have not been diminished, but rather were increased by delay, and that the commissioner has prepared a summary showing the discrepancies that have arisen, from which it appears that of the lands approved to the State, 808,336.61 acres were still unpatented. Which amount he believes to be nearly correct. Some general recital is then given as to the difference in acreage by reason of the resurveys, and states that from the correspondence on file in his office, he concludes that the department at Washington propose to  
use resurvey as a basis for future patents. Calls attention to  
442 the fact that in some fifteen townships original selections are made amounting to over 35,000 acres, but none of them had been approved to the State. The commissioner is of the firm conviction that the grant can never be adjusted by correspondence, but



that a personal communication between constituted authorities is a better method of arriving at an adjustment, and he fears that the department at Washington is withholding for the purpose of compelling an adjustment in accordance with their ideas.

The report for 1861 states that a complete list of undisposed lands, to which the State is entitled to patents, has been made and forwarded to the Commissioner of the General Land Office, with a request that patents issue as speedily as possible.

The report for 1862 states that, proceeding under the State act of 1861, relating to undisposed swamp lands, they have received patents for over 362,000 acres of lands, and that patents are in preparation which will increase the amount to over 533,000 acres. He believes the matters are in a way to a speedy adjustment.

The report for 1865 refers to the action of preceding commissioners under the act of 1861, and that comparisons on the list prepared are still being made.

The report for 1866 states that they have received approved lists for about 231,000 acres, which had been omitted from former lists; that as soon as patents are received they can be brought into market.

Report for 1868 states that the entire amount of swamp lands conveyed to the State by the act of Congress had been patented, with the exception of about 40,000 acres in Cheboygan and Houghton counties.

The report for 1869 states that the amount still unpatented is about 35,000 acres lying in Cheboygan county. It is embraced within an Indian reservation.

Report for 1870 contains a statement showing *that* the total amount of swamp lands passed to the State under the act of Congress to be 5,794,308.57 acres.

443 The report for 1872 states that of thirty-six millions acres of lands in the State of Michigan, over thirteen and a half millions have been granted to the State for various purposes.

Report for 1874 contains some figures showing the amount of lands for which the State had received patents of swamp lands, and the amount still on hand and otherwise disposed of.

Extracts from all of which reports are found on pages 309 to 316 of the Record.

107. In admitting in evidence over plaintiff's objection, Exhibit 161, being a copy from the records at Washington of the surveyor general's list No. 1, Grand River district, so far as it covers towns. 18 north, range- 3 and 4 west, which exhibit is found on pages 316 to 320 of the Record.

108. In admitting in evidence over plaintiff's objection, Exhibit 162, being a copy from the General Land Office of Ionia approved list No. 1, so far as it covers towns. 18 north, ranges 3 and 4 west, which exhibit is found on pages 320 to 325 of the Record.

109. In permitting the witness, Edward W. Sparrow, to answer the question, "Were they selected in advance of the performance?" Which question was answered, "No, sir" (Record, p. 326).

110. In permitting the witness Edward W. Sparrow to answer the

question, "When did you complete the performance of the contract under which you obtained title to those lands now?" The answer to which was, after referring to the patent for the lands, "I think in 1886" (Record, p. 326).

111. In permitting the witness Edward W. Sparrow to answer the question, "Do you not know that the patents were signed in blank and left in the hands of the secretary of state?" Which question was answered, "I do not" (Record, pp. 326 and 327).

112. In permitting the witness William L. Webber to answer the question, "What was the occasion of your being present?" Which question was answered, "I was there as attorney for the Flint &

444 Pere Marquette Railroad Co. to protest against the sale, and make claim for certain odd-numbered descriptions that were offered for sale" (Record, p. 327 and 328).

113. In permitting the witness William L. Webber to answer the question, "Now at that sale was there any notice given in behalf of the State of Michigan, or any protest made to the sale on the part of the State of Michigan?" Which question was answered, "None to my knowledge" (Record, p. 328).

114. In permitting the witness Charles A. Rust to answer the question, "In the purchase of these lands, what title did you understand you were obtaining?" Which question was answered, "We supposed we were getting a good title" (Record, p. 328).

115. In admitting in evidence over plaintiff's objection, Exhibit 163, being a tax deed from the State of Michigan by the auditor general of the State of Michigan, to C. A. Rust, dated July 30th, 1892, issued in pursuance of a sale of the lands in controversy, for the delinquent taxes for the year 1888, at a sale thereof made May 4th, 1891, for the sum of \$350.24, which exhibit was produced in evidence at page 329 of the Record, and is found in full at page 330.

116. In permitting the witness William L. Webber, to answer the question, "As a matter of fact, didn't that sale of the quantity of land, and the proceedings that were taken in relation to it, attract a good deal of public attention through the State?" Which question was answered, "It did throughout our section of the State, and throughout other sections of the State where they were interested in the lands, so far as I know" (Record, p. 332).

117. In denying the motion of plaintiff's counsel to strike out and reject all the documentary evidence introduced on the part and in behalf of defendants relating to fraudulent and defective and erroneous surveys of the townships of Michigan prior to the act of Congress of September 28, 1850, for the reason that such evidence is irrelevant and immaterial to the issue in this suit, the evidence referred to being Exhibit 57 (p. 80), Exhibit 58 (p. 81), Exhibit 59 (p. 83), Exhibit 60 (p. 85), Exhibit 61 (p. 94), Exhibit 62 (p. 96), Exhibit 63 (p. 99), Exhibit 64 (p. 100), Exhibit 65 (p. 100), Exhibit 66 (p. 102), Exhibit 67 (p. 103), Exhibit 68 (p. 106), Exhibit 69 (p. 107), Exhibit 70 (p. 108), Exhibit 71 (p. 113), Exhibit 72 (p. 113), Exhibit 73 (p. 114), Exhibit 74 (p. 116), Exhibit

75 (p. 124), Exhibit 76 (p. 130), which motion is found on pages 332 and 333 of the Record.

118. In denying the motion of plaintiff's counsel to strike out and reject the documentary evidence introduced on the part of defendants relative to the resurveys in Michigan after the 28th day of September, 1850, for the reason that such evidence is irrelevant and immaterial to the issue in this suit, the matter referred to being Exhibit 77 (p. 134), Exhibit 78 (p. 137), Exhibit 79 (p. 140), Exhibit 80 (p. 147), Exhibit 81 (p. 149), Exhibit 83 (p. 169), Exhibit 86 (p. 172), Exhibit 90 (p. 177), Exhibit 91 (p. 178), Exhibit 92 (p. 179), Exhibit 93 (p. 180), Exhibit 94 (p. 181), Exhibit 95 (p. 181), Exhibit 96 (p. 182), Exhibit 97 (p. 183), Exhibit 114 (p. 214), Exhibit 116 (p. 230), Exhibit 117 (p. 230), Exhibit 118 (p. 231), Exhibit 119 (p. 232), Exhibit 120 (p. 233), Exhibit 121 (p. 235), Exhibit 122 (p. 237), Exhibit 123 (p. 237), Exhibit 124 (p. 238), Exhibit 125 (p. 241), Exhibit 126 (p. 241), Exhibit 131 (p. 248), Exhibit 137 (p. 263), Exhibit 144 (p. 276), Exhibit 146 (p. 278), Exhibit 148 (p. 281), Exhibit 149 (p. 283), Exhibit 150 (p. 285), Exhibit 151 and 151 A (p. 286), which motion is found on page 333 of the Record.

119. In denying the motion of plaintiff's counsel to strike out and reject all the documentary evidence produced by defendants, relative to the resurveys in Michigan after the approval of the swamp-land list by the Secretary of the Interior, and the transmission of such list and the plat to the governor of the State of Michigan, called Ionia list No. 1, for the reason that such evidence is immaterial and irrelevant to the issue. The matter referred to being that part of Exhibit 81, commencing with the report of the Commissioner of the General Land Office for the year 1853 (p. 153), Exhibit 83 (p.

169), Exhibit 86 (p. 172), Exhibit 90 (p. 177), Exhibit 91 (p. 178), Exhibit 92 (p. 179), Exhibit 93 (p. 180), Exhibit 94 (p. 181), Exhibit 95 (p. 181), Exhibit 96 (p. 182), Exhibit 97 (p. 183), Exhibit 114 (p. 214), Exhibit 116 (p. 230), Exhibit 117 (p. 230), Exhibit 118 (p. 231), Exhibit 119 (p. 232), Exhibit 120 (p. 233), Exhibit 121 (p. 235), Exhibit 122 (p. 237), Exhibit 123 (p. 237), Exhibit 124 (p. 238), Exhibit 125 (p. 241), Exhibit 126 (p. 241), Exhibit 131 (p. 248), Exhibit 137 (p. 263), Exhibit 144 (p. 276), Exhibit 146 (p. 278), Exhibit 148 (p. 281), Exhibit 149 (p. 283), Exhibit 150 (p. 285), Exhibit 151 and 151 A (p. 286), which motion is found on page 333 of the Record.

120. In denying the motion of plaintiff's counsel to strike out and reject supplemental lists of the swamp lands made by the surveyor general, filed in the office of the Commissioner of the General Land Office at Washington, May 12, 1858, and the map of the resurvey filed in the office of the register and receiver, June 3, 1858, the matter referred to being Exhibit 123 (p. 237), Exhibit 124 (p. 238), Exhibit 153 (p. 292), which motion is found on page 333 of the Record.

121. In rejecting and excluding on plaintiff's offer, the records and files in the case of the *United States vs. Henry Nicholson et al.*, in the United States circuit court for the eastern district of Michigan, being Exhibit 175 A. This was an action brought by the United

States against Henry Nicholson and his bondsmen, based on the contract of Nicholson with Surveyor General Haines, dated the 20th day of July, 1838, for the survey according to the laws of the United States and the instructions of the surveyor general of towns 18, 19 and 20 north, ranges 1, 2 and 3 west, and the bond given in pursuance of that contract, dated the 20th of July, 1838, alleging as breaches of the condition of the bond that Nicholson as deputy surveyor did not well and truly and faithfully, according to the laws of the United States and the instructions of the surveyor general, make and execute the surveys required under the terms of his contract, and did not return the field-notes of such a survey, and that he did not, with his chainmen and axemen and flag-bearers, lay out and subdivide the towns in the sections as required to do by the contract. The plea was one of performance, and that if there had been a non-performance, full payment and satisfaction had been made by the defendants, and that the bond was released and discharged. On the trial of the case before a jury on the 25th day of November, 1850, there was a verdict in favor of the defendants, which records and files, so far as they have a bearing on this issue, are found on pages 357 to 364 of the Record.

122. In rejecting and excluding the records and files in the case of the *United States vs. Henry Brevoort et al.*, in the United States circuit court for the eastern district of Michigan, being Exhibit 175 B. This action was in the same form as the action against Nicholson, set forth in the preceding assignment, his contract bearing date December 13, 1839, covering towns 24, 25, 26 and 27 north, ranges 1, 2 and 6 west, and towns 25, 26 and 27 north, ranges 3, 4 and 5 west, and towns 24, 25 and 26 north, range 7 west. Declaration alleges in substance a non-performance of the contract in accordance with the laws of the United States and the instructions of the surveyor general, and the plea is that the contract was fully performed. On a trial of the cause before a jury on the 23d day of November, 1850, there was a verdict for the defendants, which records and files, so far as they bear upon this issue, are found on pages 364 to 374 of the Record.

123. In rejecting and excluding from evidence on the offer of plaintiff, Exhibit 176, being a letter dated December 13, 1850, from J. M. Howard to Secretary of the Interior Stewart, reciting the institution of suits in the United States court against Deputy Surveyors Nicholson, Brevoort, and others, at the suggestion of Lucius Lyon, the late surveyor general.

Mr. Howard was the counsel employed in the cases for one of the defendants, Mr. Mullett, and gives the history of the trial of the case against Brevoort, and alleges that there was not the slightest proof that the returns of the surveys by Brevoort were fraudulent or fictitious, as had been reported, and states that the Government relied upon the testimony of Wm. A. Burt, the deputy surveyor, who had made an examination, under instructions of Surveyor General Lyon, of the surveys in controversy, in April, 1849, and the following months, and indicates that Mr. Burt re-

ceived, as his compensation for these surveys, \$2,500 more than he was by law entitled to receive, and from his testimony it appeared that he found many of the old monuments of the old surveys, and that a large portion of the country examined had been run over by fire, which had consumed most of the timber, and the same facts were proved by other witnesses, which letter is found on pages 375 to 377 of the Record.

124. In rejecting and excluding from evidence on offer of plaintiff, Exhibit 177, being a letter from United States District Attorney Bates to Hon. James L. Conger, dated February 10, 1851, referring to the trial against Brevoort and Mullett; states that the cause was tried in the previous December, and had been taken to the Supreme Court on bill of exceptions, but the evidence of the trial was conclusive that the surveys had been faithfully fulfilled, and that eventually the defendants would have a verdict, which exhibit is found on page 378 of the Record.

125. In rejecting and excluding from evidence on the offer of plaintiff, Exhibit 178, being a letter from United States District Attorney Bates to Commissioner Butterfield, dated February 11, 1851, reciting in substance the facts stated in Exhibit 177, referred to in the preceding assignment, which letter is found on pages 378 and 379 of the Record.

126. In rejecting and excluding from evidence on the offer of plaintiff, Exhibit 179, and the inclosures contained in it, being a letter from Chas. Noble, surveyor general, to Commissioner Butterfield, dated February 28th, 1851, inclosing two letters of Henry Brevoort, Jr., making charges against the late Surveyor General Lucius Lyon. The first letter is dated February 11, 1851, and charges that Lyon had been given contracts for districts too large for him to execute in person, and had let them out to other persons, so that he could not run and mark the lines as he was required to do by the general instructions governing surveying contracts. That he did not accompany his surveying parties to the districts contracted, but remained at Detroit and Lansing sufficient time so that he had not given over five or six weeks to the field-work covered by his contracts, and that while the instructions required the surveys to be made by the use of Burt's solar compass, Lyon had only one such instrument for the entire party, and that he had failed to pay numbers of the men who were in his employ. The second letter is dated February 14th, 1851, replying to a letter of the 7th inst., from Noble to Brevoort, requesting him to furnish the proof of his statement, in which Mr. Brevoort says he is ready to produce competent testimony in any court whenever called upon to do so, which letters are found on pages 380 to 383 of the Record.

127. In rejecting and excluding from evidence over plaintiff's objection, Exhibit 180, being a letter from Wilson, Commissioner, to Surveyor General Noble, dated January 15, 1853, stating that the order to determine what action should be had with reference to the surveyor general's office in view of the act of Congress of 1840, relative to the closing of the office, suggests that the chief clerk,

Mr. Frost, be sent to Washington to personally give such information and receive such instructions as are desired, which exhibit is found on page 384 of the Record.

128. In rejecting and excluding from evidence, Exhibit 181, being a letter from Surveyor General Noble to Commissioner Wilson, dated February 14, 1853, stating that he has prepared in the limited time allowed him a schedule of the field-notes and office work yet to be completed in his office, and that the bearer, Mr. Frost, had been detailed to present the same, and that he would give such further information as he deemed important for the Commissioner's office. Attached to the letter is the schedule referred to, showing ten townships of resurveys not yet completed, and seven townships in the Upper Peninsula unsurveyed, and seven townships the surveys of which made in 1851 were suspended, and that a number of towns yet to be platted and the notes transcribed, which exhibit is found on pages 385 and 386 of the Record.

129. In rejecting and excluding from evidence over plaintiff's objection, Exhibit 182, being a statement of Mr. Frost as chief clerk of the surveyor general's office to Commissioner Wilson, dated February 24, 1853, stating that it is estimated there are upwards of 100 townships, excluding the Higgins surveys, which are either reported or represented to be fraudulent and defective. That pending the surveys there was considerable office work relating to these townships, and others, uncompleted. There was estimated that there was one thousand plats yet to be copied before the archives of the office could be transferred, and that it was an important fact in reference to the resurveys of the lands in the northern part of the Southern Peninsula; that it would be fairly estimated that the Government would lose nothing by ordering the work, for if the swamp-land selections were made according to the indications of the new surveys, sufficient land could be sold by the General Government to more than pay the entire cost of resurveys, which exhibit is found on pages 387 and 388 of the Record.

130. In refusing to give plaintiff's request to charge No. 4, which request is as follows:

The act of Congress made it the duty of the Secretary of the Interior to identify the lands granted, and when he tendered to the State of Michigan the election to receive the lands granted, according to the field-notes of the Government survey, as the basis of identification, in accordance with the instructions under date of November 21, 1850, which method of identification was accepted by the legislature of the State by an act passed and approved June 21, 1851, the method so tendered and accepted became a compact between the State of Michigan and the United States, and was binding upon both parties (Record, p. 400).

131. In refusing to give plaintiff's request to charge No. 5, which request is as follows:

The Secretary of the Interior having approved the selections contained and designated by legal subdivisions in a list called the Ionia land district No. 1, over his hand, and bearing



date the 27th day of October, A. D. 1853, and made a plat thereof, under and in accordance with said act of Congress, and forwarded said list of legal subdivisions and plat to the governor of the State of Michigan, and suggested that the governor request patents therefor from the United States, and the governor having requested patents to be issued therefor on the 31st day of January, 1854, and the legal subdivisions in issue in this suit being contained in and designated as swamp lands in said list and plat as swamp lands inuring to the State of Michigan under said act of Congress, the title to the legal subdivisions described in the plaintiff's declaration in issue in this suit became fully identified and fully vested in the State of Michigan (Record, p. 400).

132. In refusing to give plaintiff's request to charge No. 6, which request is as follows :

That after making said list and plat and forwarding them to the governor of the State of Michigan, the work of issuing the patents therefor, as requested by the governor, was merely ministerial, and the Secretary of the Interior could not deprive the State of Michigan of such lands by neglecting or refusing to issue patents therefor (Record, p. 400).

133. In refusing to give plaintiff's request to charge No. 7, which request is as follows :

The act of Congress approved March 3, 1857, confirmed to the State of Michigan all selections embraced in the approved list No. 1 of the Ionia land district, which were, at the date of said act, vacant and unappropriated, and not interfered with by previous settlement under the laws of the United States; and the uncontradicted evidence in this case showing that the lands described in the plaintiff's declaration were embraced in such selections and contained in the approved list and plat made by the Secretary of the Interior,

and were, on the 3d of March, 1857, vacant, unappropriated and not interfered with by previous settlement under the laws of the United States, were by that act confirmed to the State of Michigan, such act of confirmation operating as a grant of lands embraced in such approved list and plat (Record, pp. 400, 401).

134. In refusing to give plaintiff's request to charge No. 8, which request is as follows :

If such approved list made and approved by the Secretary of the Interior was, on the 3d of March, 1857, withheld from patent because of the resurveys having been ordered or made, and if he had any corrective or other authority over such list to alter and act upon it, then the act of March 3, 1857, applied to such list and confirmed the lands designated therein to the State of Michigan, and deprived the Secretary of the Interior of all power in the premises save to cause patents to such lands to be issued to the State of Michigan (Record, p. 401).

135. In refusing to give plaintiff's request to charge No. 9, which request is as follows :

The testimony in the case fails to show that there had been any such adjustment of the swamp-land grant between the State of

Michigan and the United States, as in law deprives the State of the title of the land granted to it under the act of Congress of September 28, 1850, and claimed in this suit (Record, p. 401).

136. In refusing to give plaintiff's request to charge No. 10, which request is as follows:

The testimony in this case fails to show that there has been any estoppel as against the State to forbid its grantee and those claiming title from the State to rely upon the act of Congress granting the lands involved in the issue in this case to the State (Record, p. 401).

137. In refusing to give plaintiff's request to charge No. 11, which request is as follows:

Upon the whole record and the testimony given you in the open court, your verdict should be for the plaintiff (Record, p. 401).

453 138. In the district judge charging the jury as follows:

"I will say to counsel that, as it lies in my mind, there is no substantial distinction between this case and the first, except that the lands in question are found in an approved list, which was subsequently revoked and canceled by the Secretary of the Interior, and the question that arises upon the power of the Secretary to order the resurvey or revoke any certification of lands made by him before the actual issue of patents. If he had such power, then, of course, the title of the defendants must prevail in this action, and I have no doubt the Secretary had the power not only to order the resurvey as I have held before" (Record, p. 403).

139. In the district judge charging the jury as follows:

"But at any time before the issue of patents, if he discovered that there was fraud or mistake, or if he was satisfied upon the evidence before him that the lands were not of the character granted by the act of September 28, 1850, it was his duty, notwithstanding he had certified them to the State by approval of the list, to revoke that certification, cancel it, and the lands remain unaffected. And of course, if the patents had been issued, it was quite probable that this action would have been conclusive on the rights of the parties, that patent not having been issued, and the Secretary having decided, as it was his province to decide on the facts before him, that the lands were not of the character granted, I think the title of the defendants must prevail" (Record, pp. 403, 404).

140. In the district judge charging the jury as follows:

"With reference to the act of 1857, my impression is very strong. Both from the reading of the act and from what I have seen in the decisions of the Department of the Interior, where the question has arisen once or twice that the act was primarily intended for those selections of land made by the States themselves pursuant to the surveys which they had made, and had no application, at least it

454 wasn't originally intended for and does not apply to those lands designated as swamp lands under the surveys of the United States, and it certainly has no application to those lands the lists of which were set aside and canceled, and of which a resurvey was ordered by the Secretary of the Interior, and the act of 1857 could not, in my judgment, even if it intended to apply to



all the States alike, it could not revive selections which had been so far canceled by the Secretary of the Interior in the line of his duty as to order a resurvey of those lands" (Record, p. 404).

141. In the district judge directing a verdict for the defendants, as requested by defendants' counsel (Record, p. 404).

142. There is also error in this, to wit, that by the record aforesaid, it appears that the judgment aforesaid, in form aforesaid, was given for the said defendant, Charles A. Rust, survivor, etc., and against the said Michigan Land and Lumber Company (Limited); whereas, by the law of the land, the said judgment ought to have been given for the said Michigan Land and Lumber Company (Limited), and against said Charles A. Rust, survivor, etc.

And the said Michigan Land and Lumber Company (Limited), prays that the judgment aforesaid for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that it may be restored to all things that it has lost by occasion of said judgment, etc.

FRANK E. ROBSON,

*Attorney for Plaintiff.*

455 UNITED STATES OF AMERICA:

The Circuit Court of the United States for the Eastern District of Michigan.

THE MICHIGAN LAND AND LUMBER CO. (LIMITED),  
Plaintiff,

*vs.*

CHARLES RUST, Survivor in the Action of Ejectment  
against Amasa Rust and Charles Rust, Defendant.

Ejectment.

The above-named plaintiff, The Michigan Land and Lumber Company, Limited, conceiving itself aggrieved by the judgment entered on the third day of August, 1893, in the above-entitled proceeding, and having filed with the clerk of said court assignments of error, doth hereby pray that a writ of error to said circuit court may be allowed, and that a transcript of the record and proceedings and papers upon which said judgment was entered, duly authenticated, may be sent to the circuit court of appeals of the United States for the sixth judicial circuit at Cincinnati.

Dated the 12th day of January, 1894.

FRANK E. ROBSON AND  
J. W. CHAMPLIN,

*Attorneys for Plaintiff and Appellant.*

And now, to wit, on the 12th day of January, 1894, it is ordered that a writ of error be allowed as prayed for.

HENRY H. SWAN,

*District Judge.*

456 United States Circuit Court of Appeals for the Sixth Circuit.

UNITED STATES OF AMERICA, }  
*Sixth Judicial Circuit,* } ss :

The President of the United States to the honorable the judge of the circuit court of the United States for the eastern district of Michigan, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you or some of you, between The Michigan Land and Lumber Company, Limited, plaintiff, and Charles A. Rust, survivor of himself and Amasa Rust, deceased, defendant, a manifest error hath happened, to the great damage of the said The Michigan Land and Lumber Company, Limited, as by its complaint appears, we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States circuit court of appeals for the sixth circuit, together with this writ, so that you have the same at Cincinnati, in said circuit, on the 10th day of February next, in the said circuit court of appeals, to be then and there held, that the record and proceedings aforesaid being inspected, the said circuit court of appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 12th day of January, in the year of our Lord one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and eighteenth.

[SEAL.]

WALTER S. HARSHA,

*Clerk of the Circuit Court of the United States  
 for the Eastern District of Michigan.*

Allowed by—

HENRY H. SWAN,

*District Judge.*

457 Service of a true copy of the within writ this day is hereby acknowledged, January 15th, 1894.

HANCHETT, STARK &amp; HANCHETT,

*Attorneys for Defendant in Error.*

United States Circuit Court of Appeals for the Sixth Circuit.

UNITED STATES OF AMERICA, }  
*Sixth Judicial Circuit,* } ss :

To Charles A. Rust, survivor of himself and Amasa Rust, Greeting:

You are hereby cited and admonished to be and appear at a session of the United States circuit court of appeals for the sixth circuit, to be holden at the city of Cincinnati, in said circuit, on the

10th day of February next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the eastern district of Michigan, wherein The Michigan Land and Lumber Company, Limited, is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 12th day of January, in the year of our Lord one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and eighteenth.

HENRY H. SWAN,  
*District Judge.*

Service of a true copy of the within citation this day is hereby acknowledged.

January 15, 1894.

HANCHETT, STARK & HANCHETT,  
*Attorneys for Defendant in Error.*

458 *Know all men by these presents, that we, The Michigan Land and Lumber Company, Limited, of Lansing, Michigan, as principal, and Edward W. Sparrow, of Lansing, Michigan, and Samuel L. Smith, of Detroit, Michigan, as sureties, are held and firmly bound unto Charles A. Rust, of Saginaw, Michigan, in the full and just sum of five hundred dollars (\$500), to be paid to the said Charles A. Rust, his certain attorneys, executors, administrators or assigns, to which payment, well and truly to be made, we bind ourselves, our successors, heirs, executors and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this twelfth day of January, in the year of our Lord one thousand eight hundred and ninety-four.*

*Whereas, lately at a session of the circuit court of the United States for the sixth circuit, eastern district of Michigan, in a suit depending in said court, between the said Michigan Land and Lumber Company, Limited, as plaintiff, and said Charles A. Rust, survivor of himself and Amasa Rust, deceased, defendant in ejectment, a judgment was rendered against the said Michigan Land and Lumber Company, Limited, and the said Michigan Land and Lumber Company, Limited, having obtained a writ of error and filed a copy thereof in the clerk's office of the said court, to reverse the judgment in the aforesaid suit, and a citation directed to the said Charles A. Rust, citing and admonishing him to be and appear at a session of the United States circuit court of appeals for the sixth circuit, to be holden at the city of Cincinnati, in said circuit, on the tenth day of February next:*

*Now, the condition of the above obligation is such, that if the said Michigan Land and Lumber Company, Limited, shall prosecute its writ of error to effect, and answer all damages and costs if it fail to*

make its plea good, then the above obligation to be void ; else to remain in full force and virtue.

MICHIGAN LAND AND LUMBER  
COMPANY (LIMITED),  
By E. W. SPARROW, *Manager*.  
EDWARD W. SPARROW.  
SAM'L L. SMITH.

[SEAL.]  
[SEAL.]  
[SEAL.]  
[SEAL.]

Sealed and delivered in presence of—

FRED. L. SMITH.  
E. WM. SNYDER.

Approved by—

HENRY H. SWAN,  
*District Judge.*

459 UNITED STATES OF AMERICA :

In the Circuit Court of the United States for the Eastern District of  
Michigan.

THE MICHIGAN LAND AND LUMBER CO. (LIMITED)	}	No. 7606.
<i>vs.</i>		
CHARLES A. RUST, Survivor of Himself and Amasa Rust.		

I, Walter S. Harsha, clerk of the circuit court of the United States for the eastern district of Michigan, do hereby certify and return to the writ of error sued out by the plaintiff in the above-entitled cause to the United States circuit court of appeals for the sixth circuit, that the above and foregoing is a true and correct copy of the record and proceedings of said cause as the same appears on file and of record in my office ; that I have compared the same with the original, and it is a true and correct transcript therefrom and of the whole thereof.

*In testimony whereof*, I have hereunto set my hand and affixed the seal of said court at Detroit, in said district, this sixteenth day of January, in the year of our Lord one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and eighteenth.

[SEAL.]

WALTER S. HARSHA, *Clerk.*

460 Afterwards, to wit, on April 10th, 1894, the following stipulation was filed herein, which reads and is in the words and figures following, to wit :

United States Circuit Court of Appeals for the Sixth Circuit.

MICHIGAN LAND & LUMBER COMPANY, LIMITED, Plaintiff in }  
Error,  
vs.  
CHARLES A. RUST, Survivor, Defendant in Error. }

In this cause it is hereby stipulated by and between the parties hereto, by their respective attorneys, that the hearing and argument of said cause may be continued over the May term of said court and not brought on for argument until the June term thereof.

Dated April 7th, A. D. 1894.

FRANK E. ROBSON,

*Attorney for Plaintiff in Error.*

HANCHETT, STARK & HANCHETT,

*Attorneys for Defendant in Error.*

461 And afterwards, to wit, on May 23rd, A. D. 1894, the following order was made upon the journal of said court, clothed in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

MICHIGAN LAND & LUMBER COMPANY, LIMITED, Plaintiff in }  
Error,  
vs.  
CHARLES A. RUST, Survivor, Defendant in Error. }

Present: The Honorables Wm. H. Taft and Horace H. Lurton, circuit judges, and Hon. Henry F. Severens, district judge.

By stipulation this cause is continued to the June session.

And afterwards, to wit, on May 31st, 1894, the following stipulation was filed herein, which reads and is in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

MICHIGAN LAND & LUMBER COMPANY, LIMITED, Plaintiff in }  
Error,  
vs.  
CHARLES A. RUST, Survivor, Defendant in Error. }

In this cause it is hereby stipulated by and between the parties hereto, by their respective attorneys and counsel, that the said cause be continued over the June session and stand for hearing and argument at the October session of said court.

Dated May 28th, 1894.

J. W. CHAMPLIN,

FRANK E. ROBSON,

*Attorneys and Counsel for Defendant.*

HANCHETT, STARK & HANCHETT,

*Defendant's Attorneys.*

And afterwards, to wit, on October 2nd, A. D. 1894, at a term of said court begun and held at the city of Cincinnati, Ohio—present, the Honorables Wm. H. Taft and Horace H. Lurton, circuit judges, and Hon. Henry F. Severens, district judge—the following order was made upon the journal of said court, clothed in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

MICHIGAN LAND & LUMBER COMPANY, LIMITED, Plaintiff in  
Error,  
*vs.*  
CHARLES A. RUST, Survivor, Defendant in Error.

This cause came on this day for hearing and is argued in part.

463 And afterwards, to wit, on the 3rd day of October, A. D. 1894, the same judges being present, the following order was made upon the journal of said court, which reads as follows, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

MICHIGAN LAND & LUMBER COMPANY, LIMITED, Plaintiff in  
Error,  
*vs.*  
CHARLES A. RUST, Survivor, Defendant in Error.

This cause, coming on again this day, is further argued.

And afterwards, to wit, on the 4th day of October, A. D. 1894, the same judges being present, and order was made upon the journal of said court, clothed in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

MICHIGAN LAND & LUMBER COMPANY, LIMITED, Plaintiff in  
Error,  
*vs.*  
CHARLES A. RUST, Survivor, Defendant in Error.

This cause came on and was further argued and submitted.

464 And afterwards, to wit, on May 7th, A. D. 1895, and opinion was rendered in said cause by said court, which reads as follows, to wit:

465 United States Circuit Court of Appeals for the Sixth Circuit,  
October Term, 1893.

THE MICHIGAN LAND & LUMBER COM- PANY, LIMITED, Plaintiff in Error, <i>vs.</i> CHARLES A. RUST, Survivor, etc., Defend- ant in Error.	}	No. 178. Error to the Circuit Court of the United States for the Eastern District of Michigan.
--	---	--

(May 7, 1895.)

Before Taft & Lurton, circuit judges, and Severens, district judge.

This is an action in ejectment brought in the court below by the plaintiff in error to recover two hundred and sixty acres of land in township 18, north of range 3 west, in the county of Clare, State of Michigan. The declaration originally included other lands, but they were stricken out by amendment, and by a further amendment the plaintiff's claim was limited to an undivided half interest, which it claims in fee. The plea was the general issue. The case was tried by the court with a jury upon evidence adduced by the parties, and the jury, by direction of the court, rendered a verdict for the defendant. Judgment having been entered thereon, the plaintiff brings the case here for review upon exceptions taken upon the trial to the rulings admitting or rejecting evidence, and to the giving and refusal of instructions to the jury.

The plaintiff founds its right to recover upon a title derived through Edward W. Sparrow, to whom patents of the land were issued by the State of Michigan, bearing date April 14th, 1887. It is claimed that the State had acquired title to the lands under the act of Congress of September 28th, 1850, known as the swamp-land grant. The defendant claims title through mesne conveyances under patents issued by the United States for parts of the lands in question to William A. Rust May 10th, 1870, and for the other part to Addison P. Brewer, January 10th, 1867, upon purchases of the said lands by the respective patentees.

466 The questions involved render it necessary to take into view a brief history of the proceedings of the United States and of the State of Michigan taken for the survey and disposition of the public lands lying within the State, proceedings, some of which took place prior to the date of the grant, but which created conditions in which the grant was administered, and others of which are explanatory of the intent and purposes of those who participated in its adjustment. So much of this history as is deemed essential in the opinion of the court will now be referred to.

Prior to the enactment of the swamp-land grant, act of September 28th, 1850, the larger portion, but not all, of the public lands in Michigan had been surveyed. The work had been done by deputy surveyors under contracts with the United States. Unfortunately such contracts were in many instances defectively and fraudulently executed and the surveys were so imperfect that great embarrassment and difficulty was experienced in making locations and settling



the country, not only from the lack of the marks and indications upon the land required by the law of the survey, but also from the falsity of the character given to the quality of the land, which was likewise required to be stated in the survey. Such imperfections and difficulties arising from defective surveys existed in other States, but they seem to have been extraordinary in Michigan, and the mischief was widely extended through the State. Soon after the admission of the State into the Union the legislature adopted a joint resolution which was transmitted by the governor to the President of the United States by a communication dated February 3rd, 1842, reciting that large districts of land within the State had been returned by the deputy surveyors as surveyed where no surveys whatever had been made, or where the surveys had been so imperfectly done as to be utterly valueless; and that the lands so represented as surveyed had been offered for sale to the very great injury of the State and the citizens thereof, and requesting the President to cause a resurvey to be made in certain townships, 81 in number, represented to have been surveyed, but which had not been surveyed, or so imperfectly surveyed that the work was valueless. Upon the recommendation of the Commissioner of the General Land Office, the governor's communication and the resolution of the legislature were referred to the surveyor general for a report of the facts, to the end that proper action might be taken. A report was made by that officer, stating that information of a similar character about the surveys in Michigan had come to him, showing how such frauds as were complained of might exist without appearing from anything in his office, and recommending the sending of an experienced surveyor into the field to test enough of the surveys to determine the truth in regard to them. Upon this report the Commissioner of the General Land Office issued instructions to the surveyor general to pursue the course which the latter had recommended, and if the surveys proved defective in field-work, that new surveys in all such cases should  
467 be made. The governor of the State was notified of what was being done in response to the request of the legislature. On the 11th day of April, 1842, the surveyor general commissioned William A. Burt to make the proposed examination. This commission was executed by Mr. Burt, and upon his report the surveyor general communicated the results thereof to the Commissioner of the General Land Office, stating that the report furnished abundant proof that the surveys examined by Mr. Burt were grossly defective and fraudulent, and added that there was great probability that the other surveys made under the same contracts were as defective as those which had been examined. The substance of this report was communicated to Senator Porter, of Michigan, by the Commissioner of the General Land Office with a statement that it was designed to issue instructions for the necessary resurveys. In a further communication from the surveyor general to the Commissioner of the General Land Office in April, 1843, it was stated that by a report of Mr. Burt, whose examinations appear to have been continued, in the townships examined by him, a very



small portion of any of the lines had been surveyed or marked, and that what was found to have been done was so erroneous and defective that little or none of it could be relied upon.

In September, 1844, Mr. Woodbridge, who was then a Senator from Michigan, addressed the Commissioner of the General Land Office, and referring to the measures taken by him to obtain appropriations for resurveys in that State, said that the great and increasing evils suffered by the State in consequence of the false surveys made therein, remained without correction; that they were of incalculable extent, and had produced a deep feeling of wrong throughout the State. In reply to that letter, after referring to the apportionment of an appropriation to be expended in correcting fraudulent surveys in certain parts of the State, the Commissioner further said: "All the other cases of erroneous or defective surveys in Michigan will be examined and instructions issue as speedily as they can be prepared." In pursuance of this general purpose, extensive examinations were made and resurveys were directed in various parts of the State. Resurveys were accordingly made and instructions were issued by the Commissioner of the General Land Office to the officers of the local land offices in the State, directing them to cancel the plats of the old surveys immediately on receipt of the plats of the new surveys, making proper reference on the old plats to the new ones, so that the old plats should not be used under any circumstances. Reports continued to come in showing the results of the examinations of the old surveys indicating their erroneous and defective character, and under the instructions of the Land Department resurveys were carried on in the localities which were shown to have been defectively surveyed.

On the 10th day of July, 1849, the surveyor general in a letter to the Commissioner of the General Land Office stated that  
468 from the examinations that had been made by Mr. Burt within the last three months it appeared that most of the field-notes originally returned to the surveyor general's office by Deputies Nicholson, Brookfield and Brink as containing true descriptions of surveys made by them, were fictitious and fraudulent. The surveyor general thereupon recommended an entirely new survey of the districts just referred to, being those between townships 17 and 24 north, and bounded on the east by the principal meridian. This included town 18, north of range 3 west, wherein are located the lands involved in the present suit, the original survey of which was made by Nicholson. It appears from the report of the Commissioner of the General Land Office for 1849 that Mr. Burt was employed to fully examine the district which included the lands in question. The plats of 280 townships were furnished to Burt and to Risdon, another surveyor, to the latter of whom was assigned the examination of the lands not assigned to Burt. It was further stated in the Commissioner's report that the returns of surveys in seven districts embracing ninety-one townships, some of which were made by Nicholson, were grossly fraudulent, "the greater portion of the field-notes thereof being wholly fictitious or descriptive of lines and corners that were never established." That the survey

in the district of lands in question was contracted by Nicholson, and that examinations of his work made in every township showed that it "was bad throughout." The report also contained an estimate that an additional appropriation of \$20,000 would be required for correcting erroneous and fraudulent surveys in Michigan. At the next session of Congress the subject of an appropriation for resurveying and correcting erroneous surveys came under consideration, and it appears from an extract from the Commissioner's report contained in Executive Document No. 2, Senate, that the general condition of the surveys in that State was fully understood, as well as the measures being taken in the Land Department for correcting them by resurveys. In this report which the Senate had before it was a map of the State which showed the condition of the surveys therein and indicated the towns defectively surveyed. Among those defectively surveyed was township 18, north of range 3 west. From all this and from other facts shown by the record of this case, and of which the court might take judicial notice, the general facts sufficiently appear that prior to September 28, 1850, the General Government in response to the request of the State and with its knowledge had undertaken, and was then carrying on, extensive resurveys of the public lands in the State for the purpose of correcting those which were false, and supplying such portions of the original surveys as had never been made in the field at all; that as fast as the resurveys were made they were returned to the surveyor general's office and were furnished to the local land offices in the State, and that by general directions to those officers from the Land Department, the old surveys were cancelled and the new surveys were adopted as the guide for the disposition of the  
469 lands, and that the lands were disposed of on the basis of the new surveys. It is true as appears that there was some disregard of this practice at some of the local offices; but it also appears that as soon as this disregard of instructions was brought to the attention of the Land Department it was disapproved and immediately corrected.

This was the state of things when the swamp-land act was passed September 28, 1850. In order to ascertain what lands passed to the State under the provisions of this act the Commissioner of the General Land Office sent instructions to the surveyor general to make out lists of the land, and in these instructions the Commissioner said to the surveyor general: "The only reliable data in your possession from which these lists can be made out are the field-notes of the surveys on file in your office, and if the authorities of the State are willing to adopt these as the basis of these lists, you will so regard them. If not, and these authorities furnish you satisfactory evidence that any lands are of the character embraced by the grant, you will so report them." A copy of these instructions was sent to the governor of the State. The legislature of Michigan by act No. 187 of the Laws of 1851, page 322, resolved to "adopt the notes of the surveys on file in the surveyor general's office as the basis upon which they will receive the swamp lands granted to the State by an act of Congress September 28th, 1850." Lists of the swamp land

were made out by the surveyor general from the field-notes of the surveys then on file in his office, which lists were furnished to the Commissioner of the General Land Office. When these lists had been purged of the descriptions of lands sold by the United States prior to the date of the grant, they were presented to the Secretary of the Interior for approval. Among others, such a list including the descriptions in question was approved by the Secretary of the Interior on the 27th day of October, 1853, and was transmitted by the Commissioner of the General Land Office to the governor of Michigan, by letter dated January 13th, 1854, saying that he transmitted "a certified copy of list number 1 of swamp and overflowed lands selected and enuring to the State in the district of land subject to sale at Ionia taken from the original files in this office, which on the 27th day of October, 1853, was approved by the Secretary of the Interior." This list included the lands in suit and a large quantity of other lands. In the margin of the descriptions contained in town 18 north of range 3 west was written the letter "F" which was explained in the accompanying certificate to mean that the survey of that township had been reported as fraudulent. Upon the reception of this list by the governor and on January 31st, 1854, he forwarded to the Commissioner of the General Land Office a request for a patent of the lands contained therein "conveying the fee-simple title in said lands to the said State of Michigan." This request was not complied with at the time nor until March 17th, 1857, when, the surveys having been completed, the character of the land ascertained and the lands which were fraudulently reported  
470 originally as swamp but afterwards shown not to be so, expunged from the lists, a patent was issued which recited that it was in pursuance of the request of the governor of January 31st, 1854. The resurvey of the township in question had in the meantime been made and the patent did not contain any of the lands in that township. Up to and at the time when the above-mentioned approved list was transmitted by the Land Department to the governor of Michigan, the examinations of the old surveys and resurveys were going forward in the land district in which the lands in suit are located, and reports had been made to the Land Department by the surveyor general relative to the lands in the district, stating that "this entire section of country has until recently been considered low, level and swampy with pine, cedar, balsam and hemlock ridges, cold, sterile and unfit for cultivation. The furthest possible from this are the facts in reference to this region," and that, "in some instances in the original survey, lakes covering many hundred acres have been laid upon the maps where none existed, thus covering with water a large area of beautiful country which but for these frauds, might long since have been opened for sale and settlement."

In the report of the Commissioner of the General Land Office for 1853 which must have been made up at about the time when the certification of the list in question was pending in the office, it appeared on the authority of the surveyor general that in the townships recently surveyed, "portions of the lines were run and found

to be established; other lines were run, but seemed never to have been corrected, while other portions of the survey were found to be entirely fraudulent, no lines ever having been run." It was further stated in that report that "the examinations in the four districts embraced in my present estimate represent that in many of the townships no lines have ever been run. They also serve to show, as all examinations of defective surveys have ever done, that the field-notes of the original surveys are no index to the true and real character and value of the country of which they purport to give a faithful description." "Instances are numerous where valuable agricultural and pine lands are found to exist in place of what has been reported as dense and in some cases impassible swamp or nearly worthless lands." The report estimated that an appropriation of \$20,160 would be required to complete the work, and it appears that Congress made the appropriation as requested. 10 Statutes at Large, 565.

On the 29th day of October, 1853, two days later than the date of the Secretary's approval of the list of lands in the Ionia district, and while that list was still in the office, the surveyor general transmitted a supplemental list of swamp lands in that district to the General Land Office, stating that in obedience to instructions from the Commissioner, he had "indicated in the heading of this list that it is intended to abrogate and supersede all lists of swamp lands heretofore made of townships contained in it." To this the

471 Commissioner replied on November 7th, 1853, saying, "Your letter of the 29th ultimo transmitting supplemental list of swamp and overflowed lands in the Ionia district, Michigan, intended to abrogate and supersede all lists of swamp lands heretofore made of townships contained within it has been received. The original list will be altered so as to conform to said supplemental list."

Resurveys in this and other districts in the State went on. The Commissioner of the General Land Office in directing the making of such surveys by the surveyor general instructed him that "the lines will have to be run, and the corners established as if originally, and all the irregular lines and corners must be most carefully and thoroughly obtained." As fast as they were completed they were transmitted with the proper plats to the General Land Office and to the local land offices in the several districts in the State, where, by the instructions of the department they superseded "the old and fraudulent survey-" which were to be treated as "abrogated;" and since that time the business at the general and local offices has been conducted upon the basis of the new surveys. The resurveys in Michigan were continued until as late as 1857, and Congress made special appropriations therefor nearly every year from 1845 to 1856, inclusive.

On the 18th day of May, 1858, the surveyor general transmitted to the General Land Office a supplemental list of swamp lands which included town 18, range 3 west, and stated in the heading thereof that it was intended to supersede lists theretofore made of swamp lands within the townships contained in it. This list did not in-

clude the lands in question, and many other lands included in the original list were dropped, and many not included in the first were included in the later list. A list of lands designated in the record as list No. 10, Ionia, containing the lands in this township which were contained in the surveyor general's list last mentioned was approved by the Secretary of the Interior May 15th, 1866, which was forwarded to the governor of Michigan on May 26th by letter from the Commissioner saying: "You will please to acknowledge the receipt of said list, and transmit your request for the patent to issue, on the receipt of which or as soon thereafter as practicable, patent will be issued conveying the fee-simple in said lands to the State." The governor acknowledged the receipt of this list on May 31st, 1866, by letter in which he says, "I have the honor to request that the patents for said lands may issue to the State of Michigan as soon as practicable conveying the fee-simple title thereof to the State." On June 21st following, patent was issued accordingly conveying among other lands those in town 18, north of range 3 west, but not the lands in controversy here.

On February 24th, 1855, the Commissioner of the General Land Office having received from the surveyor general a list of all resurveyed swamp lands, addressed a letter to the governor of Michigan stating that he had received such a list which he said "abrogates and supersedes all lists of swamp lands heretofore made of the townships contained within it." After giving a list of townships, he adds, "The original selections in the foregoing townships made from the defective plats, were approved in lists numbers 1, 2 and 3, Ionia district, Michigan, certified copies whereof were transmitted to your predecessor January 13th, 16th and 18th, 1854. In consequence of the alteration necessary, by reason of the list recently received, I have the honor to request a suspension of all action upon the lists heretofore furnished you, so far as these several townships are concerned, until the differences can be ascertained and adjusted." List No. 1 of January 13th, 1854, above mentioned is the one upon which the plaintiff founds its title. The governor took action in accordance with the request. In the report of the commissioner of the State land office for 1855, the above letter to the governor was mentioned, and the commissioner saying that his office had been notified of the resurvey by the General Government of considerable tracts embraced in the lists of swamp lands principally in the Ionia district, added, "and the same have been, as directed, marked as suspended on our books." Township No. 18, range 3, was not included in the above list, but, as already stated, was included in the original survey and certificate. The transaction is given as a sample of the methods by which the land grant was adjusted, and because of its particular relation to the lands involved in the present controversy. In the report of the commissioner of the State land office for the following year, 1856, speaking of the swamp lands, he said: "Patents are now received for all these lands in the State except those situated in the Ionia land district, comprising about 1,200,000 acres, and for these we are assured the patents will soon be forwarded, the making of

which have been delayed in consequence of extensive resurveys by the General Government, which in some instances change the amount and character of the land." "Public sale or offering has not been deemed advisable until after the title of the State to the grant should be wholly confirmed by the issue of the patents, and the numerous corrections and restatements of the lists necessary to be previously made by the department at Washington."

Further correspondence between the officials of the State and the General Government, and the several reports of the commissioner of the State land office during the years while the settlement of the grant was pending, show that the course above indicated was pursued throughout. The evidence on this subject is quite voluminous, and it is impracticable to do more than to state its general results. It is pertinent to add in this connection that the legislature of Michigan in 1857 in a law providing for the sale of the swamp lands coming to it by the grant forbade the making of such sales until the patent therefor had been received from the United States.

The proceedings for the adjustment of the grant went on until in 1869 the commissioner of the State land office reported that the entire amount of swamp lands conveyed to the State by the act of Congress had been patented with the exception of about 35,000 acres in Cheboygan county, which consisted of an Indian

473 reservation, the title thereto not having been extinguished. Some fugitive pieces have since that time been discovered and patented to the State, but the business was substantially closed as early as 1868.

The lands in question and others in the same plight were sold at auction after public advertisement at the land office at Ionia in November, 1869. No objection appears to have been made to the same on behalf of the State.

Upon the trial the plaintiff offered in evidence the records and files of a suit tried in 1849 in the circuit court of the United States for the district of Michigan, brought by the United States upon the bond of Nicholson who surveyed the lands in suit, which resulted in a verdict for the defendant, and that upon the question arising as to whether a new trial should be applied for, the surveyor general instructed the district attorney not to proceed further, upon the advice of the district attorney that the verdict would eventually be for the defendants: which offer was rejected by the court, and the plaintiff excepted.

Having stated the case as above, SEVERENS, district judge, delivered the opinion of the court:

The propositions upon which the plaintiff maintains its right to recover in this case are these, in substance:

First. That the swamp-land act of 1850 operated to convey the title to the lands proposed to be granted to the State *in presenti*.

Second. That the ascertainment of the lands granted was delegated to the Secretary of the Interior to be performed by such method as he should deem expedient.



Third. That by his approval, and the certification thereof, of the list including these lands, and the transmission thereof to the governor of the State January 13th, 1854, the title attached to the lands and became irrevocably vested in the State.

Fourth. That the subsequent transactions between the General Government and the State did not operate to impair the title thus vested.

It is further claimed that the act of 1857 operated to fix the title in the State if the lands had not been so identified that the title had already vested. The latter claim will be discussed in another place.

The first of the above propositions must be conceded. Whatever doubt may have once been entertained, such has become the established doctrine as settled by a long line of decisions from *Railway Co. vs. Smith*, 9 Wal. 95, to *Cunningham vs. Lake Superior Ship Canal, Railway and Iron Co.*, 155 U. S. 354. The second proposition may also be conceded. In a wide sense it would be subject probably to some limitations which for the purposes of this case need not be stated. There can be no doubt that while acting within the limits of his authority, the choice of methods was left to the Secretary.

The third and fourth propositions involve questions of 474 vital and far-reaching import. If in the circumstances in which the swamp-land grant found the land surveys in Michigan, and as we understand, in some other States also, and in which the grant was adjusted in that State, and notwithstanding the co-operating action of the General Government and the State in that adjustment, it is competent now to assert a title in the State which it is competent to convey, founded upon the original surveys and certifications long since superseded because found erroneous or mistaken and contrary to the purpose of the law, the consequences may be very serious indeed. If all the land, whether swamp or arable, which was once certified upon the original fraudulent surveys, can now be claimed and sold by the State, it is obvious that much disturbance of titles and of what has since been done, must ensue. The swamp lands in Michigan, owing to its peculiar topography, were widely scattered through the State. The land in the State of all descriptions has nearly all been sold and it has been sold as finally surveyed after the discovered frauds were corrected. The old surveys and the new would not be uniform, but would overlap, or spread apart, leaving gores and fractions between. The lands in Michigan covered by this grant amounted to very nearly six millions of acres, being almost one-sixth of the entire area of the State.

In effect the plaintiff's contention amounts to this: that no matter how gross the error or from what case proceeding, the Secretary of the Interior, when once he had certified a list of lands as falling due to the State under the grant, was without power to rectify it, though no patent had been issued and the rights of no third party had become involved by purchase from the State; and further that the Secretary had no power to do this with the consent of the State.

We do not think this doctrine can be sound. The identification of the lands affected by the grant was left to the Secretary. The mode of doing this which was suggested by him involved concurrent action by the State. The proceedings on both sides should be construed in the light of existing circumstances, and not arbitrarily without regard to them. And the intention with which each step was taken and its purpose should be gathered from all that was mutually done and expressed with reference to the subject. Surely these rules are not too wide to be applied to a great governmental transaction like this. It was said by Judge Graves in delivering the opinion of the supreme court of Michigan in *Dale vs. Turner*, 34 Mich. 405, 416: "There is no occasion to assail the position that the swamp-land act was sufficient to work an immediate transfer of the class of lands to which it was applicable. Because, if it was so, it was still within the power of the State and the United States, the parties to the grant, to agree, in the absence of any conflicting right, that sales made by the United States subsequent to the swamp-land act, should be respected by the State and be left to be completed by the United States by conveyance, and that the State should resort to the United States for equivalents." This case, as does also that of *The State vs. Flint & Pere Marquette R. R. Co.*, 89 Mich. 475 481, asserts in an unequivocal manner the capacity of the State for active participation and negotiation in the settlement of the grant; and it would seem that its officials charged with the duty of acting in its behalf in that regard should be deemed its representatives.

While it is not now questioned that the act of 1850 transferred the title to the granted lands *in presenti*, yet the identification of the lands so that the grant should attach to particular parcels was another matter, and whether a selection of lands was intended to be provisional or final was a question of intention to be gathered in the light of all the circumstances. And while we cannot refer to the understanding with which the law was executed to construe the act of Congress, we think it is competent, if such understanding of the law can be ascertained, to take it into consideration in determining the consequences intended by the parties from their acts. It was not until the year 1869 when the case of *Railway Co. vs. Smith*, 9 Wal. 95, was decided that the doctrine now accepted in regard to the time when the title should be deemed to have vested under this grant, was settled. Differing views had been entertained, and in many quarters it was thought that the title did not vest until the issuance of the patent as required by the second section of the act. Now, we think no one can read the record of what was done in the administration of the grant in the State of Michigan without having a very strong impression that what was done was upon the understanding that the title would not pass until patents were issued—or, to say the least, that it was thought that the safest way was to act upon that presumption—and that the State as well as the Secretary governed themselves accordingly.

The supreme court of Michigan, in *Dale vs. Turner*, 35 Michigan. 405, construed the act of the legislature of the State of June 28th



1851, adopting the field-notes as the basis on which the grant would be received, as importing an understanding that the title would not be obtained until patents were received, and the whole tenor of the subsequent transactions indicates that this view continued to be held. What was done was regarded as part of a proceeding which was *in fieri* until the patent should be issued, and this was expected to come when the surveys were finally completed and reliable data for making a just segregation of the swamp lands should be obtained. We also think it clear that the field-notes mentioned in the act last referred to were intended to be the lawfully established field-notes and not those which had been rejected, or having been impeached, would probably be wiped out. It would have been a comparatively short piece of work to have simply made out the lists from the notes of the original survey. It was for the interest of the State itself as well as of its citizens that the resurveys should be completed and the frauds of which it had complained should be corrected. It would then know what it was getting, marked and defined by an actual survey made by the recognized authority, and in harmony with the system upon which contiguous lands  
476 would be sold and owned, and for its honor, that what was awarded to it was according to its rights, and not the fruit of fraud.

In passing, we may advert to a complication arising in the present case. The declaration describes the lands which it seeks to recover by the descriptions of the Government survey, and this without more must be deemed to refer to the recognized and authorized survey. A judgment in its favor thereon would establish its title accordingly and entitle it to be put in possession of the lands thus described, and the marshal would have no other guide than the description in the declaration and judgment. Whether that would correspond with the old survey, the court has no means of knowing. The presumption is that it would not, for the old was erroneous and the new is presumptively correct.

For these and such reasons the State suspended from sale lands contained in selections already made, upon request of the Commissioner of the General Land Office, and when new lists expressly intended, and known to be intended, to supersede the former selections were received from the General Land Office, they were adopted by the State and patents requested thereon by the State officials charged with that duty. The State also, in its legislative capacity knew how the adjustment was going forward. The reports of the commissioner of the State land office showed it, and the legislature of 1857 enacted a statute to forbid sales of lands before patents were received. That statutory provision has ever since been in force. Section 2 of act No. 130 of the Laws of Michigan for 1883, upon which Sparrow obtained his patents for the lands here claimed by the plaintiff, seems to indicate that the lands appropriated by the State and authorized to be patented, were lands which were subject to sale, and as these were not, because no patent had been received for them, we have difficulty in finding the authority by which the patent issued to Sparrow. This is a question not submitted by counsel,

and therefore we do not pursue it. There are sporadic instances shown by the record where State officials have started suggestions of doubts whether the State was getting all it was entitled to, and of claims for more, but they were either never insisted upon by the State, or were settled by adjustment.

We are, therefore, of opinion that it was not intended by the Secretary of the Interior, nor expected by the State, that the selection of swamp lands certified and transmitted to the governor on the 13th day of January, 1854, and which included the lands claimed by the plaintiff should be necessarily final, but that it was intended to be subject to correction to the extent that the facts shown by the resurveys should require, and that upon its being proven by the resurvey that these lands were not swamp, it was competent to supersede the selection by a correct one.

But if this were not so, we should still be prepared to hold, that where, as in this case, a selection had been made and approved under a mistake of facts induced by a false and fraudulent  
477 survey whereby lands had been certified which were not swamp and to which the State had no right whatever, and the rights of no third party had intervened, it was competent for the Secretary, on discovering the error at any time before issuing the patent, to correct the wrong by recalling his certifications; not upon "mere error of judgment, but that character of mistake which affords a ground of relief in a court of equity." 5 Land Decisions, p. 31. The Secretary under this grant would exercise his powers consistently with his general authority over the public lands. He had plenary and exclusive power to direct the surveys, to cancel such as he found erroneous, and to order resurveys as the necessities of every occasion should require. He had the power and was charged with the duty of supervising the method by which granted lands should be passed to the beneficiary. If mistakes were committed by his subordinates, the results of which, if suffered to stand, would be to accomplish a wrong, he had power to correct them. If they were made by himself, his duty was as plain and his power no less ample. "The obligations of his oath of office oblige him to see that the law is carried out, and that none of the public domain is wasted or is disposed of to a party not entitled to it. He represents the Government, which is a party in interest in every case involving the surveying and disposal of the public lands."

Knight vs. U. S. Land Association, 142 U. S., 161, 181.

The Secretary could not abdicate his functions. Nor could he assume any obligation by agreement with the State which would bind him in the discharge of his duty to the General Government. The business in which he was engaged was not that of contract, but the exercise of a delegated authority. That duty rested upon him in the transmission of the lands intended by the grant. By the act in question the proceedings in his department extended from the first step to be taken for the identification of the lands to the issuance of the patent to the State whereupon they became "subject to the disposal of the legislature thereof." The Attorney General in

speaking of the patent required to be issued to the State by the second section, in 9 Op. Att'y Gen. 255, said, "The object of that clause was undoubtedly to prevent the legislature of the State from a premature interference with lands before they were so designated as to preclude mistake and confusion."

The Secretary may prescribe methods, as he prescribed a method here, for the conduct of business, and "when proceedings affecting title to lands are before the department the power of supervision may be exercised by the Secretary, whether these proceedings are called to his attention by formal notice or appeal, and it is sufficient that they are brought to his notice. The rules prescribed are designed to facilitate the department in the despatch of business, not to defeat the supervision of the Secretary. For example, if, when a patent is about to issue, the Secretary should discover a fatal defect in 478 the proceedings, or that by reason of some newly ascertained fact the patent, if issued, would have to be annulled, and that it would be his duty to ask the Attorney General to institute proceedings for its annulment, it would hardly be seriously contended that the Secretary might not interfere and prevent the execution of the patent. He could not be obliged to sit quietly and allow a proceeding to be consummated, which it would be immediately his duty to ask the Attorney General to take measures to annul. It would not be a sufficient answer against the exercise of his power that no appeal had been taken to him and therefore he was without authority in the matter."

Pueblo case, 5 Land Dec., 494.

So here, if the title of the State was irrevocably vested in this land by the certification of the Secretary, and there was no duty left but the mere issuance of the patent notwithstanding the discovery of the mistake, he could have been compelled by the court to issue it. When issued, the court would not under the settled rule vacate it on account of the original mistake, for that had been discovered by the Secretary before the patent was issued. Thus the mistake would be irretrievable.

The language of the Secretary in 5 Land Dec., 494, last cited, was quoted and approved in *Knight vs. U. S. Land Association*, 142 U. S., 178, and the doctrine fortified by reference to former decisions of the court, citing,

*Maguire vs. Tyler*, 1 Beach, 195, 9 Wal. 650, 661.

*Snyder vs. Sickles*, 98 U. S., 203, 211.

*Buena Vista County vs. Iowa Falls, etc., Railroad*, 112 U. S., 165, 175.

And it was further held in that case that the Secretary could take action for the correction of such mistakes on his own motion and that he need not await a contest. It cannot be denied that the power to do this is lodged somewhere. After the patent has issued or, when, under the granting act no patent is required, all things contemplated by the act have been done, the court is the proper forum in which to deal with the case. But when the patent is re-

quired by the act it would seem that Congress intended the Secretary's supervision to continue until all things contemplated by the act have been accomplished, by its issuance. This distinction in the jurisdiction has been adverted to in previous discussions and appears to be a recognized and established one. It has certainly been acted upon for many years in the Land Department of the United States, and although there is no express decision of the Supreme Court turning on the precise point, yet it has been clearly recognized in several cases as denoting the line between the boundaries of the jurisdiction of the department and of the courts.

Counsel for the plaintiff are mistaken in the suggestion which they make that the doctrine that the Secretary has power to  
 479 correct his own errors in certifying lands before patent originated with Secretary Lamar in 1886. It may be that there was never so definite and formal a promulgation of the doctrine before that time, but the record in the present case shows that it was asserted and acted upon many years before. It passed unchallenged at the time. It was then and has continued to be a rule by which the practice of the department has been governed. After the lapse of this long period we do not think it competent, at least unless the unlawfulness of the practice is clear and plain, for private individuals having no interest to protect, to buy into the ground of controversy and challenge the validity of a proceeding of this character upon the foundation of which other interests have been established and now repose.

It is not claimed that these lands were in fact swamp, but the plaintiff founds its right upon the Secretary's certification of the list in which they were included, as upon a judgment irrevocably concluding that question.

The rule has often been stated and applied that when under a grant transferring the title *in presenti* the lands have been identified in the manner prescribed by the act, the title to the particular lands so identified becomes vested in the grantee. But these are cases where all had been done which the statute contemplated as necessary to complete the title, or if in any case it fell short of that, there were no countervailing equities. Some of the more recent cases on this subject are,

United States *vs.* Schurz, 102 U. S. 401.

Wright *vs.* Roseberry, 121 U. S. 502.

Cragin *vs.* Powell, 128 U. S. 691.

Tubbs *vs.* Wilhoit, 138 U. S. 146.

Williams *vs.* United States, 138 U. S. 514.

Knight *vs.* U. S. Land Association, 142 U. S., 161.

Noble *vs.* Union River Logging Co., 147 U. S. 165.

And the case of

Barden *vs.* Northern Pacific Railroad Co., 154 U. S. 288, where in the opinions delivered there is a general discussion of the subject.

In the case of Noble *vs.* Union River Logging Co., 147 U. S., 165, the Secretary, on the approval of the location of the railroad was *functus officio*. That was the only duty devolved upon him; and

further, it was not bound up in another subject over which he had general authority. Besides from the nature of the subject, Congress must have understood when making the grant there in question that the approval of the Secretary would be presently acted upon by the railroad company, and a situation created where great hardship would ensue if the approval should be revoked. That being so, it was reasonable to regard the act as intending the Secretary's approval to be final when once made.

And in the case of *Wright vs. Roseberry*, 121 U. S., a case much relied on by the plaintiff, certain propositions are stated, which counsel take from the opinion and lay down upon this as rules and

480 measures by which we should be governed in our decision. We do not question the correctness of the doctrines announced in that case, nor if we did, should we feel at liberty to disregard its authority. But that case is to be construed as all decisions are, by reference to the facts involved and the questions presented for decision, and not as an announcement of propositions which would be unaffected by other facts and the application of other principles which the presence of such facts would involve. And, however correctly that case states the law, we must here take notice of "certain equitable considerations which the department is authorized to recognize;" and in regard to which, "when recognized, no court will ever disturb its action," as was said in *Williams vs. United States*, 138 U. S., 514, 523, in dealing with certain propositions relating to this general subject, the correctness of which was not doubted. What has been said is of general application to the cases cited.

The rulings of the Interior Department at least in recent years, have uniformly maintained the right of the Secretary to revoke a certification or other equivalent act before patent, on the ground that it had been inadvertently made and was erroneous in fact.

<i>Lachance vs. Minnesota</i> ,	4	Land Dec.	479.
State of Oregon,	5	" "	31.
State of Oregon,	5	" "	300.
State of Oregon,	5	" "	374.
State of Minnesota,	6	" "	637.
State of Michigan,	7	" "	514.
State of Oregon,	7	" "	572.
State of Wis. v. Wolf,	8	" "	555.

There are other decisions of the same import. And there is no decision of the Supreme Court impugning that right when exercised under an act of Congress contemplating a supervision of the proceedings until completed by the issuance of a patent. On the other hand, the rulings of that court have been in conformity with the practice and decisions of the department. On their own account these decisions of the department are very persuasive as to what the law is, and as multitudes of titles have been founded upon them, they ought not to be disturbed except for very cogent reasons.

*Hastings and Dakota R. R. Co. vs. Whitney*, 132 U. S., 357.

*Knight vs. U. S. Land Association*, *supra*.

We now come to the consideration of the act of March 3rd, 1857, 11 Stat. at Large, 251. That act provided that the selection of swamp and overflowed lands granted by the act of 1850 "heretofore made and reported to the Commissioner of the General Land Office so far as the same shall remain vacant and unappropriated, and not interfered with by actual settlement under any existing law of the United States, be and the same are hereby confirmed and shall be approved and patented to the several States in conformity with the provisions of the act aforesaid as soon as may be practicable after the passage of this law."

481 Delays had occurred in the proceedings in the Interior Department for the ascertainment of the lands intended to be transmitted under the grant. This act was passed to expedite them. There is nothing in it which indicates any purpose to enlarge the grant. Nearly all the States had chosen to select the lands for themselves and to furnish proof that the lands were of the character mentioned in the granting act. By the terms of the option extended to the States for the taking of lands under the grant, in case they were not taken by the field-notes, the State authorities were required to furnish to the surveyor general satisfactory proof of the character of the lands included in their selections. It is contended by counsel for the defendant that the act of 1857 was intended to apply to those cases only; and there is some plausibility in the argument made in support of that theory. But as it was customary to speak of the lists made up by the surveyor general in the State which elected to select their lands on the basis of the United States survey as "selections," it seems doubtful whether such selections were not included. We shall not, however, decide that question, being of opinion that the act was not intended to include a list which was in the situation of the one under which the plaintiff claims. The list had some time before been acted upon by the land department and was expected to stand except in so far as it should be impeached for fraud or error by the resurveys. Congress knew that those resurveys were going on. For several years it had been making appropriations therefor. It was a matter of public record that the surveys on which it was based were fraudulent and that where the resurveys had developed the fraud and corrected the errors, all traces of the old survey were obliterated. The old survey had been rejected by competent authority. As was said in *Knight vs. U. S. Land Association*, *supra*, a rejected survey is no survey, and inoperative for any purpose. New lists had been made and filed in the Commissioner's office based upon the new survey, and the plats made in conformity therewith. It was held by the Secretaries of the Interior, and we think with sufficient reason, that the act was not intended to confirm old lists founded upon the first survey which had been thus superseded. It was so held by Secretary Vilas in 7 Land Dec. 525; by Secretary Noble in 8 Land Dec. 387; and this is confirmed by the ruling of Secretary Thompson, 1 Leslie's Land Laws, 560.

And further, we are of opinion that it was not intended by this act to override the general power of the Secretary to correct frauds



and mistakes in the preparation of the lists thereby confirmed, and that upon a just construction of the act such frauds and mistakes remained subject to correction.

Whether upon the application of the doctrine of estoppel the State should be held to be precluded by the acceptance of the new selection which was expressly confirmed as in lieu of the old one, and upon which new selection it accepted patents for other  
482 lands than those included in the first, we have not found it necessary to determine. It was held by the supreme court of that State upon similar facts in *State of Michigan vs. F. & P. M. R. R. Co.*, 89 Michigan, 481, that the doctrine was applicable, and it was applied to an attempt made on behalf of the State to assert title to lands of which it had received an equivalent.

We think there was no error in the rejection by the court of the plaintiff's offers in evidence of the record of the suit of the United States against Nicholson and his bondsmen, in the circuit court of the United States for the district of Michigan. That case was not between the parties in the present suit and could bind neither of them in respect to the subject-matter of this. Besides, there was nothing to show upon what facts the case turned, whether upon any circumstance relevant here or not. If the record of that suit had been admitted, it would have had no material effect in view of the prime facts of the present case. The other exceptions relate in the main to the admission in evidence of public documents of which we should take judicial notice and to the correspondence of public officials pertinent to the matters in controversy. None of the rulings excepted to were injurious to the plaintiff, whether any of them were technically erroneous or not. The case was rightly argued upon its main features, and we decide the case by reference to them.

For the reasons stated we think the judgment should be affirmed.

483 And thereupon, on the same day, to wit, May 7th, 1895, judgment was entered in said cause in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

MICHIGAN LAND & LUMBER COMPANY, LIMITED, Plaintiff in	}
Error,	
<i>vs.</i>	
CHARLES A. RUST, Survivor, Defendant in Error.	}

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the eastern district of Michigan, and was argued by counsel.

On consideration whereof it is now here ordered and adjudged that the judgment of the said circuit court in this cause be, and the same is hereby, affirmed with costs.

And afterwards, to wit, on the 5th day of June, 1895, the following request not to remand was filed in said court, which reads and is in the words and figures following, to wit:

484 United States Circuit Court of Appeals for the Sixth Circuit.

MICHIGAN LAND & LUMBER COMPANY, LIMITED, Plaintiff in Error,	} Error to the Circuit Court of the United States for the Eastern District of Michigan. No. 178. October Term, 1893.
<i>vs.</i> CHARLES A. RUST, Survivor, Defendant in Error.	

To Frank O. Loveland, Esq., clerk.

SIR: This being a case in which the review and determination of the circuit court of appeals is not final, you are requested not to remand the said cause to the circuit court for further proceedings, as it is the intention of the plaintiff and appellant to carry the case to the Supreme Court of the United States by writ of error.

Yours, &c.,

J. W. CHAMPLIN AND  
FRANK E. ROBSON,  
*Attorneys for Plaintiff.*

And afterwards, to wit, on the 25th day of June, 1895, the following assignments of error were filed in said court, which read and are in the words and figures following, to wit:

485 UNITED STATES OF AMERICA:

Supreme Court.

MICHIGAN LAND & LUMBER COMPANY, LIMITED, Plaintiff in Error,	}
<i>vs.</i> CHARLES A. RUST, Survivor, etc., Defendant in Error.	

Now, to wit, on the — day of —, A. D. 1895, comes the said plaintiff in error before the said court, by its attorneys, and says that in the records and proceedings aforesaid, and also in the giving of judgment aforesaid, there is manifest error in this, to wit:

1. In holding that no error was committed by the trial court in not permitting the plaintiff to show by its witness, Oscar Palmer, that prior to 1853 and between 1850 and 1853 that the General Government, through its Land Department, had sold lands in every section by the plats of the old survey, in town 18 north, range 3 west, State of Michigan, and had thus recognized this old survey.

2. In holding that no error was committed by the trial court in not permitting witness Oscar Palmer to testify in answer to the question, "I will ask you if it was not a fact that in this same town



and some of these sections land was sold. Take 20, 21, 22, 28, and 35, and see if they were not sold on the same section before the resurvey."

486 3. In holding that there was no error committed by the trial court in not permitting plaintiff to show by its witness Oscar Palmer that the plat of the old survey of said township 18 north, 3 west, "was a recognized Government survey and in actual use by the Government up to and including March 3, 1857."

4. In holding that there was no error committed by the trial court in admitting in evidence against the objection of the plaintiff, Exhibit 57, being a letter from John S. Barry to the President of the United States, dated February 3, 1842, sending inclosed therewith a copy of joint resolution of the legislature of Michigan, approved February 1, 1842, asking for the resurvey of eighty-one whole and fractional townships in said State, all lying east of the principal meridian except towns 16, 17, and 18 north, of ranges 6, 7, and 8 west.

5. In holding that there was no error committed by the trial court in admitting in evidence against the objection of plaintiff, Exhibit 58, being a letter of E. M. Huntington, Commissioner of the General Land Office, to President Tyler, dated February 17, 1842, returning to the President the letter and inclosure of February 3, 1842 (Exhibit 57), and inclosing a diagram showing the districts referred to in the resolution and stating that the records of the land office showed no evidence of irregularities in the surveys; that all the land except one township was open to private entry, and recommending that the matter be referred to the surveyor general at Cincinnati for examination, on which letter is an endorsement of the President directing such reference.

487 6. In holding that there was no error committed by the trial court in admitting in evidence against the objection of plaintiff, Exhibit 59, being a letter of E. M. Huntington, Commissioner of the General Land Office, to John S. Barry, governor of Michigan, dated February 21, 1842, acknowledging receipt of the governor's letter of February 3, 1842, with its inclosure (Exhibit 57), and inclosing a copy of the Commissioner's instructions to the surveyor general at Cincinnati, dated February 21, 1842, which instructions were to report any facts in his possession bearing on the matter, and make any suggestions that might occur to him for the correction of the supposed errors and preventing them in the future. A similar diagram to that laid before the President was inclosed, also a letter to Dr. Houghton, of October 22, 1840, from J. A. Rousseau, acknowledging some defects in surveys made by him; also directing the surveyor general to enforce certain standing instructions to deputy surveyors.

7. In holding that there was no error committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 60, being the report of Surveyor General Haines to E. M. Huntington, Commissioner of the General Land Office, dated March 4, 1842, in pursuance of the instructions of February 21, 1842. The report says deputies were appointed on the recommendation of

parties known to the office upon which he must rely for evidence of the integrity of the deputy. As to the Rousseaus he found them employed when he took the office, and the employment was continued. Their work had been in the main satisfactory, and when errors had been found they had been corrected. In the summer of 1840, he had been informed that affidavits had been lodged with the register of the land office at Genesee, Mich., charging irregularities in the surveys. He then details how the letter to Dr.

Houghton came to be written. He had written the register  
488 a number of times, but had received no reply, and doubts the existence of any affidavits. Had made inquiry at other sources as to the Rousseau surveys, but failed to obtain any accurate information. As to the districts of other deputies the letter of instructions contained the first information of irregularities.

The surveyor general recommends that Wm. A. Burt and John H. Mullett be employed to examine the towns charged to be erroneous and report their condition, and, if found defective, that new surveys be made at the expense of the contractors or their bondsmen.

He then explains how it might be possible for a deputy to make up fictitious returns of surveys, and says that such impositions had been practiced under some of his predecessors, and suggests that no Michigan official had ever complained to him of the state of the surveys, and that he was yet ignorant of the character of the alleged frauds.

He then makes some suggestions as to providing against future errors.

8. In holding that there was no error committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 61, being a letter of E. M. Huntington, Commissioner of the General Land Office, to Governor Barry, of Michigan, dated April 21, 1842, inclosing a copy of his instructions of the same date to Surveyor General Haines, issued in consequence of the report of the latter, directing the employment of an experienced deputy to examine the towns alleged to be fraudulently surveyed, and containing some general instructions for such deputy.

9. In holding that there was no error committed by the trial court in admitting over the objection of plaintiff, Exhibit 62,  
489 being the instructions of Surveyor General Haines to Wm. A.

Burt, dated April 11, 1842, Mr. Burt being employed to make the examination. The letter recites the previous correspondence with the Commissioner of the General Land Office, and instructs Mr. Burt to examine and report upon certain towns, sending him the original field-notes of some of them.

10. In holding that no error was committed by the trial court in admitting over plaintiff's objection, Exhibit 63, being a letter dated August 1, 1842, of Surveyor General Johnson to Thomas H. Blake, Commissioner of the General Land Office, which transmits to the department Mr. Burt's report on towns examined, and makes some comments on the same.

11. In holding that no error was committed by the trial court

in admitting over plaintiff's objection, Exhibit 64, being a letter dated October 4, 1842, of Blake, Commissioner of the General Land Office, to Hon. A. S. Porter, which acknowledges the receipt of a prior letter, and advises him of the receipt of the report of Mr. Burt, and that the towns examined appeared to be defective and fraudulent, and that it was the design of the office to issue the instructions for the necessary resurveys.

12. In holding that no error was committed by the trial court in admitting over plaintiff's objection, Exhibit 65, being a letter dated April 27, 1843, from Wm. Johnson, surveyor general, to Thomas H. Blake, Commissioner, acknowledging receipt of advices that \$4,000 had been set apart for making the resurveys, and stating the sum was not sufficient, and that in consequence the surveys would be confined to the towns nearest the coast, and that three deputies had been instructed to be ready to take the work.

490 13. In holding that no error was committed by the trial court in admitting over plaintiff's objection, Exhibit 67, being a letter dated September 16, 1844, from Wm. Woodbridge to Blake, Commissioner of the General Land Office, urging the appropriations for surveys in Michigan, and particularly the prosecution of the work of resurveying the towns alleged to have been fraudulently surveyed, and alleging that the Genesee land office was selling lands by the plats of the old survey after new one made.

14. In holding that no error was committed by the trial court in admitting over the objection of plaintiff, Exhibit 68, being a letter of Commissioner Blake to Hon. Wm. Woodbridge, dated September 30, 1844, acknowledging receipt of his letter of the 16th, stating that \$15,000 had been apportioned to the surveys for the district of Ohio, Indiana and Michigan, and that under instructions to the surveyor general practically the entire sum would be expended in Michigan; that instructions had been issued for certain resurveys; that the land officers at Genesee had been written to regarding the alleged sales by the plats of the old survey.

15. In holding that no error was committed by the trial court in admitting in evidence over the objection of the plaintiff, Exhibit 69, being a letter of Blake, Commissioner of the General Land Office, to the register and receiver of the land office at Genesee, Michigan, dated October 1, 1844, stating he is advised that the plats of the old survey are being used in making sales, and desires to know the reason, and that these plats should have been canceled on receipt of the plats of the new survey, and proper reference made, and that the plats of the fraudulent survey should not be used.

491 16. In holding that no error was committed by the trial court in admitting over the objection of plaintiff, Exhibit 71, being a letter to Richard M. Young, Commissioner of the General Land Office, to Hon. A. Felch, dated February 17, 1849, stating that he had written Hon. S. Breese, chairman of Committee of Public Lands, requesting the appropriation of \$10,000 for the correction of erroneous and defective surveys in southern Michigan.

17. In holding that no error was committed by the trial court

in admitting over objection of the plaintiff, Exhibit 72, being a letter dated February 17, 1849, from Richard M. Young, Commissioner, to Hon. S. Breese, requesting the insertion of \$10,000 in the appropriations for the correction of surveys in Michigan.

18. In holding that no error was committed by the trial court in admitting in evidence over the objection of plaintiff, Exhibit 73, being a letter dated July 10, 1849, from Lucius Lyon, surveyor general, to Justin Butterfield, Commissioner, which acknowledges letter of the 4th ult. from Mr. Butterfield's predecessor, advising of appropriations for surveys in Michigan, and containing certain instructions as to resurveys. Commenting on these instructions thinks it better and less expensive to make entire new surveys rather than attempt joining old lines to new ones. That Mr. Burt and Mr. Risdon were then in the field making examination of surveys, their compensation to be such as the Commissioner sees fit to allow. These examinations the surveyor general considers necessary in order to ascertain what frauds have been committed in the surveys, also as useful in determining how the appropriation of \$10,000 would be expended. Reports had been received from Mr.

Burt up to the 3rd of the last month, but none from Mr. Risdon.

492 19. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 75, being a statement entitled "Resurveys in the State of Michigan," signed by Moses Kelly, clerk, dated "General Land Office, Feb'y 14, 1851," being a general resume of the correspondence between the Land Office and the surveyor general and the State of Michigan and the action of Congress in making appropriations from time to time, the principal particulars of which are contained in Exhibits 57 to 74, inclusive.

20. In holding that no error was committed by the trial court in admitting in evidence over the objection of the plaintiff, Exhibit 79, being a letter dated February 10, 1852, from Surveyor General Noble to Commissioner Butterfield, inclosing a report of Deputy Surveyor A. S. Wadsworth. The letter acknowledges receipt of a letter from the Commissioner of November 25, and incloses a diagram representing the townships already resurveyed, districts reported fraudulent, and states that the balance of the prosecution of the resurveys, should they be ordered without reference to the suits pending in the United States court, would be substantially as proposed in the letter of the 5th of March, 1851. He considers the district west of Saginaw bay of the first importance for resurvey, and continuing with districts near Grand Traverse bay, until all are completed. Commenting on certain rules sent in a letter from the Commissioner under date of June 25 last, he considers them of a restrictive character, and that it does not appear that the present practice of the office was in conflict with the principles therein contained, but thinks no instructions can meet the exigencies of every case, but much must be left to the judgment of the deputy. The employment of codeputies he considers involved

493 with practical difficulties and productive of little good. In the mineral regions, where the solar compass is used, the most of

the work must be done in fair weather, and that possibly there an assistant to run random lines might be useful. In disconnecting the examinations from the work of resurveys the expense to the Government had been increased. In fixing the price for resurvey where the districts are near the coast the maximum price of \$6 has not been allowed, but has been where the districts were in the interior. He recommends that, if a further examination of resurveys is deemed necessary, that they should be disconnected from resurveys or new surveys, and that in townships where sales had been made or lands are occupied, that the portions sold or occupied should be treated as private claims, and the new surveys run up to the boundaries of the parcels so occupied. Letter contains other remarks and comments upon the instructions, explaining why it is necessary to deviate from them from time to time, the whole matter being submitted to the judgment of the department. The report of Mr. Wadsworth bears date December 24, 1851, and purports to give a general view of the character of the country running from Saginaw to Grand Traverse, and from Grand River to Grand Traverse, and towards the straits of Mackinaw, purporting to describe character of the timber, of the soil, and the amount of land which appears to be swampy and the amount which appears to be valuable for farming purposes. Some remarks are also made on the character of the climate at different points within this Territory.

21. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 80, being a letter from Butterfield, Commissioner, to Noble, surveyor general, dated March 8, 1852, acknowledging a communication of the  
494 10th ult., by the hands of Mr. Frost, the chief clerk, on the subject of the resurveys in this State, and divides the matter of the resurvey of the State into two classes, first, incomplete surveys, where a portion only of the lines of a township are found to be surveyed, but where some lines have been run and corners established, such portions as can be made available by retaining all remaining undisturbed. The second class are fraudulent surveys, where there is no evidence found of the good intent on the part of the deputy to comply with this contract and an entire absence of the marks and monuments to designate corners, and no lines traceable. In this class of cases the lines and corners found are to be obliterated, except where parcels are occupied and the occupant insists on having the monuments preserved, in which case his requests shall be respected, otherwise they are to establish new lines and new monuments, the work to be inspected before payment to the satisfaction of the surveyor general, these inspections to be paid for at the *per diem* allowance.

22. In holding that no error was committed by the trial court in admitting in evidence over the objection of the plaintiff, Exhibit 82, being a letter dated June 11, 1847, from Lucius Lyon, surveyor general, to Richard N. Young, Commissioner, stating that in compliance with a request for a computation of the number of acres of swamp land in each district, but a mere approximation to accuracy

can be given, as the old surveys show the swamp only at the intersection with the lines of survey. Not having the Ohio surveys in his possession, he will confine his estimates to Indiana and Michigan.

23. In holding that no error was committed by the trial court in admitting in evidence over the plaintiff's objection, Exhibit 83, 495 being a letter dated June 7, 1853, from John Wilson, Commissioner, to the surveyor general at Detroit, stating that in adjusting the swamp selections in the Grand River district a difficulty had arisen over the supplemental list dated December 8, 1852. The surveyor general, under date October 4 last, had been instructed to make out these lists in lieu of the former ones. Which in the heading of the list was evidently lost sight of. In certain towns the selections are the same, while in others the supplemental list contains fewer selections. The Commissioner inquires which is to govern, the original or the supplemental list? Whether the supplemental list is to be considered corrective or to be taken in lieu of the original.

24. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 84, being a letter dated July 29, 1853, from John Wilson, Commissioner, to the register at Detroit, transmitting certified copy of approved list No. 1 in his district, and containing instructions as to how the entries concerning should be made in the tract book and in the plats of his office, and to advise the Commissioner of any errors, etc., he may find.

25. In holding that no error was committed by the trial court in admitting in evidence over the plaintiff's objection, Exhibit 85, being a letter dated July 30, 1853, from John Wilson, Commissioner, to the register at Detroit, transmitting list A, No. 1, of his district, showing selections of swamp land rejected as being disposed of prior to the grant, and instructing him as to the manner of making the entries in connection of the entries made from the surveyor general's list, on the books of the office.

496 26. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 86, being a letter dated September 5, 1863, from J. M. Edmunds, Commissioner, to the register at Ionia, Michigan, stating that certain descriptions were confirmed selections and would be approved to the State; that certain others, though selected would not be approved, as they did not appear in the list subsequently made by the surveyor general to supersede the previous list, but they must be restored to market in the usual way before they will be subject to private entry.

27. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 87, being a letter dated September 19, 1854, from John Wilson, Commissioner, to Chapman, surveyor general, Detroit, inclosing an affidavit of O. M. Barnes, relating to the character of certain lands in the Ionia district, and that Mr. Barnes had been advised that if the swampy character of the land was doubtful he would be permitted to contest



the claim of the State, and that from an examination of the plats and field-notes the Commissioner thinks there is doubt.

28. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 88, being the reply of Surveyor General Chapman, dated September 27, 1854, to the preceding letter, stating that in determining the swamp lands inuring to the State the instructions of November 21, 1850, had been followed, the State having accepted the field-notes and plats as the basis of selections; that this course was followed in making up the lists. In the case in question there are three ways of  
497 drawing the lines, which he illustrates by a diagram annexed to the letters. The selections are based on a survey made in 1826, and the land may then have been of the character granted. Some defects in the affidavit of Mr. Barnes are pointed out, and on the whole is of the opinion that the swamp selection is correct.

29. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 89, being a letter dated October 6, 1854, from John Wilson, Commissioner, to Chapman, surveyor general, acknowledging receipt of the letter (the preceding assignment) stating none of the three ways of connecting the swamps as indicated in the diagram appear to be proper. In this case he has decided to give Mr. Barnes an opportunity of furnishing evidence as to the character of the land in question, and indicates the character of the testimony to be furnished.

30. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 90, being a letter dated September 18, 1852, from Surveyor General Noble to Commissioner Butterfield, calling attention to the purchase of a tract by Mr. Bartlett of the register at Kalamazoo, prior to the receipt of the swamp lists; that nothing had been heard from the register at Detroit, Flint, and Sault Ste. Marie, in reference to the lists in their hands for annotation.

A supplemental list embracing all new surveys will be furnished the Commissioners at an early day, and inquiries in regard to towns resurveyed, which will govern the old or new surveys.

31. In holding that no error was committed by the trial  
498 court in admitting in evidence over plaintiff's objection, Exhibit 91, being a letter dated October 4, 1852, from John Wilson, Commissioner, to Noble, surveyor general, requesting him to re-examine his notes and plats as to the tract desired by Mr. Bartlett, and if swamp advise him that the same is not subject to entry and if not to report to the Commissioner's office, and to do the same as to the parcels sold by the register at Kalamazoo. That in making out supplemental lists he should make three copies, one for himself, the register, and for the Commissioner; that in towns resurveyed he should make new lists of selections, designating the lists as being in lieu of the former ones.

32. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 92,

being a letter dated June 24, 1853, from Surveyor General Chapman to Wilson, Commissioner, acknowledging receipt of a letter of June 7; that in making up the supplemental list it should have been stated at the head of the list or in the letter of transmissal that it was in lieu of the former list; that such lists were made up without reference to the old lists or plats. The question as to which list should govern he supposed would be decided by the Commissioner, but thinks the supplemental list should govern, and that hereafter it will be so considered.

33. In holding that no error was committed by the trial court in admitting in evidence over objection of plaintiff, Exhibit 93, being a letter dated October 29, 1853, Surveyor General Chapman to Commissioner Wilson, transmitting supplemental list No. 2, Grand River district.

499 34. In holding that no error was committed by the trial court in admitting over plaintiff's objection, Exhibit 94, being a letter dated November 7, 1853, Commissioner Wilson to Surveyor General Chapman, acknowledging receipt of the list contained in the foregoing letter, and that the original list will be altered to conform to it.

35. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 95, being a letter dated January 31, 1855, Surveyor General Chapman to Commissioner Wilson, transmitting list of swamp lands in Cheboygan land district, surveyed and platted up to January 15, 1855. With this list he believes descriptions of swamp lands in every township in the State had been transmitted the Commissioner, and asks if it will be proper to furnish new lists as heretofore of lands hereafter surveyed.

36. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 96, being a letter dated February 12, 1855, Wilson, Commissioner, to Chapman, surveyor general, acknowledging receipt of the lists contained in the last letter, and advising him that it will be necessary to continue to furnish the lists as heretofore.

37. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 97, being the published report of the commissioner of the Michigan State land office for the year ending September 30, 1852, which states that no lists had yet been received of the swamp lands; gives a letter from the General Land Office, dated November 2, 1852, on the subject, which, referring to an application to have certain  
500 lands approved in advance of the regular lists, which lands were in three different land districts, states that a rule had been established not to take action on isolated tracts without taking action on the entire list in that district, as it would retard the final adjustment, but the matter of selections would be acted upon at the earliest possible period.

38. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 98, being a letter dated January 20, 1854, Commissioner Wilson to Governor



Parsons, of Michigan, requesting that he cause to be erased from approved list No. 1, Kalamazoo district of swamp lands, a certain tract erroneously approved, the lands being sold in 1836, to enter in place of it the tract intended to be approved, and to advise the General Land Office of the corrections.

39. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 99, being a letter dated January 30, 1854, Governor Parsons to John Wilson, Commissioner, acknowledging the preceding letter and advising that the corrections had been made.

40. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 100, being a letter dated February 24, 1854, Commissioner Wilson to Governor Parsons, requesting him to cause the copy of approved list No. 4, Genesee district swamp lands, to be corrected by erasing certain descriptions and in place thereof inserting certain others, and advise the General Land Office if done.

41. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 101, being a copy of Ionia approved list No. 4 from the State land office, showing erasures in the list with reference to the Commissioner's letter of February 24, 1854 (Exhibit 100, p. 185).

42. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 102, being a letter dated March 31, 1854, from Commissioner Wilson to Governor Parsons, requesting him to cause certain corrections to be made in the copy of Genesee approved list No. 1, by erasures and insertion of descriptions, and as to certain others, inasmuch as they had been disposed of by the General Government subsequent to September 28, 1850, to mark them "Suspended," and to advise the General Land Office of the corrections.

43. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 103, being Genesee approved list No. 1, from the State land office, showing the corrections and annotations requested in the Commissioner's letter, March 31, 1854, with reference to the same.

44. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 104, being a letter dated April 25, 1854, from Commissioner Wilson to Governor Parsons, requesting him to cause the copy of Genesee approved list No. 2 to be corrected by erasing certain descriptions, adding others, and changing other items, and to advise the General Land Office of the corrections.

45. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 105, being Genesee approved list No. 2, from the State land office, showing the erasures, corrections, and additions requested in the Commissioner's letter of April 25, 1854 (Exhibit 104).

46. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 106, being

a letter dated May 19, 1854, from Commissioner Wilson to Governor Parsons, requesting that certain erasures, corrections, and annotations be made on the copy of Genesee approved list No. 3, and to report the same to the General Land Office.

47. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 107, being Genesee approved list No. 3, showing the erasures, corrections, and annotations requested by the Commissioner's letter of May 19, 1854, with reference to the same.

48. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 108, being a letter from Commissioner Wilson to Governor Parsons, dated July 1, 1854, requesting that certain corrections be made in the copy of the approved list No. 3, Sault Ste. Marie district, and that the General Land Office be notified of the corrections.

49. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 109, being a letter from Governor Parsons to Commissioner Wilson, dated July, 1854, which acknowledges receipt of the letter of Commissioner Wilson of July 1, 1854 (Exhibit 108), and advises him that the corrections requested have been made.

503 50. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 110, being surveyor general's list No. 1, Grand River district, from the State land office, so far as it relates to towns 18 north, 3 and 4 west.

51. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 111, being approved list No. 1, Ionia district, from the State land office of Michigan, so far as it relates to towns 18 north, 3 and 4 west.

52. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 113, being the patent of the United States to the State of Michigan, known as Ionia No. 2, so far as relates to the lands in town 18 north and 4 west.

53. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 114, being field-notes of the resurvey of sections in township 18 north, range 3 west, involved in the declaration in this cause.

54. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 115, being a letter from Surveyor General Noble to Commissioner Butterfield, dated April 21, 1852, referring to the letter of the Commissioner of April 13. States that the certificate in the Kalamazoo list does not appear to admit of doubtful construction, and incloses a new certificate for the Grand River list to be substituted for the original, and that the lists as near as practicable be made up  
504 strictly in accordance with the instructions of the Commissioner; that the remaining lists would be made up leaving out the tracts sold prior to September 28, 1850.

55. In holding that no error was committed by the trial court in

admitting in evidence over plaintiff's objection, Exhibit 116, being a letter from Alexander F. Bell, register of Ionia land office, to the Commissioner of the General Land Office, dated September 23, 1854, inquiring whether lands appeared to have been on the maps of the old survey to have been selected by the surveyor general as swamp lands and not appearing on the maps of the resurvey and in the approved list as swamp lands are subject to private entry at his office.

56. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 117, being a letter from Commissioner Wilson to the register of the land office at Ionia, dated October 3, 1854, and stating that he should regard all selections by the surveyor general as valid until furnished by him with lists designated, "In lieu of the originals in townships resurveyed and platted," and where lands have been approved according to the old plats, no action could be taken by the register until the claim of the State has been rejected.

57. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 119, being a letter from Commissioner Wilson to Governor Bingham, dated February 24, 1855, requesting the suspension of action on Ionia approved lists Nos. 2 and 3, because surveyor general had transmitted to the Commissioner certain lists in the Cheboygan district in townships resurveyed and platted, which lists he states, "abrogates and supersedes all lists of swamp lands heretofore made of the townships contained in it," giving a list of the towns affected.

58. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 121, being a letter from Commissioner Edmunds, dated June 18, 1864, referring to certain selections, stating that they were made from the field-notes of the old surveys, and most of the selections in those towns were approved and patented to the State on the old surveys prior to the receipt of the selections based on the new surveys, supplemental list D being such a list; and the office had decided that, having acted upon one, they would ignore the other, and therefore the original list based on the old surveys should govern in those townships.

59. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 123, being the plat or resurvey of township 18 north, range 3 west, in the State of Michigan.

60. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 124, being surveyor general's supplemental list No. 3, Grand River district, from the State land office, so far as relates to towns 18 north, ranges 3 and 4 west.

61. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 125, being a letter from Surveyor General Emerson to Commissioner

Hendricks, dated May 12, 1858, transmitting supplemental lists of swamp selections in the Cheboygan, Grand River and Saginaw land districts of townships resurveyed and platted since the dates of the last supplemental lists, which lists complete the swamp-land lists, with the exception of certain towns yet requiring corrections.

62. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 126, being a letter from Commissioner Hendricks to Surveyor General Emerson, dated May 20, 1858, acknowledging receipt of the lists referred to in the letter of May 12, 1858 (Exhibit 125).

63. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 127, being approved list No. 10, Ionia land district, from the State land office, so far as it relates to towns 18 and 28 north, range 3 west.

64. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 128, being a letter from Commissioner Edmunds to the governor of Michigan, dated May 26, 1866, transmitting a copy of approved list No. 10, Ionia district, and requesting the governor to transmit his requests for patents for the lands contained in it.

65. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 129, being a letter from Governor Crapo of Michigan to Commissioner Edmunds, dated May 31, 1866, acknowledging the receipt of approved list No. 10, Ionia district, and requesting that patents might issue for the same.

66. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 130, being patent of the United States to the State of Michigan, No. 20, Ionia district, so far as it relates to townships 18 and 28 north, range 3 west.

67. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 131, being a letter from Commissioner Drummond to the governor of Michigan, dated March 25, 1873, acknowledging receipt of a letter of the governor's of the 4th inst., asking that certain lands be patented to the State as swamp lands, and advising him that the records show the lands to have been selected in 1852, and shortly afterwards approved, but never patented to the State. Resurveys having been ordered for the townships referred to, new lists were reported which do not contain the descriptions mentioned, and are therefore not recognized by the office as swamp selections. Those in the townships selected by the resurvey are suspended because contained in an Indian reservation.

68. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 132, being a letter from Commissioner State Land Office Clapp to Commissioner Burdett, dated April 15, 1875, transmitting a list of swamp and overflowed lands, contained in supplemental list C,

Cheboygan district, of the townships resurveyed, calling attention to the removal of the reservation for Indian purposes, and requesting that the list of lands be approved and patented to the State at an early day.

69. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 508 133, being letter from Acting Commissioner Curtis to the governor of Michigan, dated November 10, 1875, acknowledging the receipt of a letter of October 28, calling attention to a list of lands in townships 35 and 36 north, range 3 west, and stating that they being found free from conflict, they had been submitted to the Secretary of the Interior for approval to the State as swamp lands.

70. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 134, being approved list No. 22, Traverse City district, the same covering towns 35 and 36 north, range 3 west.

71. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 135, being a patent from the United States to the State of Michigan, No. 35, covering descriptions in towns 35 and 36 north, range 3 west.

72. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 136, being a letter from Commissioner of the State Land Office Clapp to Commissioner Drummond, dated April 30, 1874, transmitting for examination a list of lands contained in supplemental list No. 3, Grand River district, in townships resurveyed, requesting the approval of each parcel, and that patents be issued; or, if that cannot be done, the State may receive indemnity therefor. The lists inclosed cover selections in towns 18 north and 3 west, and a large number of other towns.

73. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 137, being a letter from Commissioner Burdett to Commissioner of the State Land Office Clapp, dated June 15, 1874, acknowledging the receipt of a list contained in a letter of Commissioner Clapp, of April 30, 1874 (Exhibit 136), and stating that 509 as to certain townships the greater part of the selections were made and approved under the old survey, and as to those the old selections must govern. That as to certain other of the descriptions a portion had been located by land warrants, and others had been approved to the State for railroad and canal purposes, and others sold prior to the swamp grant of September 28, 1850, and that other tracts appear to be vacant and would be submitted to the Secretary of the Interior for his approval.

74. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 138, being a letter of Clapp, commissioner of the State land office, to Commissioner Burdett, dated August 12, 1875, referring to the letter of Commissioner Burdett, dated June 15, 1874 (Exhibit 137), requesting that the lands noted in the Commissioner's letter as ap-

pearing vacant might be submitted for approval without further delay, and inclosing a list of lands.

75. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 139, being a letter from Acting Commissioner Curtis to Commissioner of the State Land Office Clapp, dated September 13, 1875, acknowledging receipt of Commissioner Clapp's letter of August 12, 1875 (Exhibit 138), advising him that certain tracts were included in Ionia list No. 20, and that certain other of the tracts were submitted to the Secretary of the Interior for approval on the 10th inst.

76. In holding that no error was committed by the trial  
510 court in admitting in evidence over plaintiff's objection, Exhibit 140, being a copy of approved list No. 20, Ionia district, so far as relates to certain descriptions in town 18 north, 3 west.

77. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 141, being a patent from the United States to the State of Michigan, No. 34, for certain swamp lands in town 18 north, 3 west, the same lands contained in Exhibit 140.

78. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 142, being a certificate of the commissioner of the State land office, dated June 16, 1892, from which it appears that certain lands in towns 18 north, ranges 3 and 4 west, and other towns are not found in any approved list, nor included in any patent of the United States to the State of Michigan on file in the State land office; and further, that no swamp lands in township 18 north, range 3 west, are included in any approved list on file in that office, except Ionia No. 1, No. 10, and No. 20, or in any patent except patents No. 20 and No. 34, and reciting similar facts as to other lands not involved in the declaration in this case.

79. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 143, being a letter of the register and receiver of the United States land office at Detroit to the commissioner of the State land office, dated September 10, 1877, transmitting a copy of a letter from the Commissioner of the General Land Office to the register and receiver,  
dated September 6, 1877, and advising the State that it has 60  
511 days to appeal from the decision of the department contained in this letter of the Commissioner referring to certain tracts of land included in homestead entries found in conflict with the claim of the State. Says that the lands were embraced in supplemental list D, and stating that the lands were in towns approved and patented, based on the old survey, and that for that reason the claim of the State to the particular parcels had been rejected.

80. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 144, being a letter dated June 26, 1880, from Commissioner Williamson to the governor of Michigan, advising him of the receipt of a letter of the 17th inst. inclosing a list of lands in township 24 north,



range 1 west, claimed as belonging to the State under the swamp grant, and stating that the list referred to was superseded by lists made on the resurveys, and as these lists do not include the lands claimed by the State, they were not recognized as swamp selections, and that the land on the odd-numbered sections had all been certified to the State for railroad purposes.

81. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 145, being a letter dated July 27, 1881, from Governor Jerome to Secretary of the Interior Kirkwood, inclosing a list of lands which had been approved to the State, and requesting patents therefor.

82. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 146, being a letter from Commissioner McFarland to the governor of Michigan, dated August 27, 1881, acknowledging receipt of the letter of Governor Jerome of July 27, 1881 (Exhibit 145), stating in reply that the records of the office showed that certain of the descriptions had been selected and approved as swamp lands, but before patent had been issued resurveys had been made and a new list prepared, in which the parcels do not appear as swamp lands, and therefore they could not be treated as such. That another description had already been patented to the State, erroneously, as being land confirmed to purchasers under the United States, under the act of March 3, 1857, and that certain of the remaining tracts would be patented to the State at an early day.

83. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 147, being a letter from Governor Jerome to Commissioner of the General Land Office, dated March 20, 1882, inclosing a letter from the commissioner of the State land office, together with the list of lands for which a patent was requested, a letter of the commissioner of the State land office, dated March 18, 1882, asking the governor to request patents on the inclosed.

84. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 148, being a letter from Commissioner McFarland to the governor of Michigan, dated March 29, 1882, acknowledging receipt of the governor's letter of the 20th inst. (Exhibit 147), stating that certain of the descriptions had been sold by the General Government prior to 1850; that others of the tracts are reported as swamp selections May 12, 1858, were November 12, 1867, selected for the Jackson, Lausing & Saginaw railroad for railroad purposes, and the State's claim to the same lands under another grant would not be recognized; that another parcel does not appear on the plats of the Government survey; that other parcels have not been selected as swamp lands, and that the remaining parcels do not appear in the lists found on the resurveys in the respective townships, and for that reason the request of the governor cannot be complied with.

85. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 149, being a letter from Commissioner Sparks to the register and

receiver at Detroit, dated March 25, 1887, stating that certain descriptions upon which homestead entries had been made were suspended for conflict with apparent claim of the State of Michigan under the swamp grant, which descriptions were contained in supplemental list D, transmitted after the resurveys in those towns, but in which towns the greater portion of lands had been carried into patents based on the old survey prior to the reception of the supplemental list, and that therefore the selections in the supplemental list would not be recognized, the claim of the State based on the supplemental list would be held for rejection, and they are requested to notify the State authorities of the usual time for appeal.

86. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 150, being a letter from Commissioner Sparks to register and receiver at East Saginaw, dated November 8, 1887, stating that as to a certain description embraced in a cash entry at that office it appears to be claimed by the State of Michigan as swamp lands, which claim is founded on a selection made December 24, 1852, subsequent to 514 which time a resurvey was made and a new list prepared, which did not contain the description involved. The field-notes do not show the parcels to be swamp and overflowed within the meaning of the grant, not being approved or patented to the State, claim of the State is held for rejection, and the register and receiver is requested to notify the governor of the State.

87. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 151, being a letter from Commissioner Wilson to the register and receiver at Ionia, dated January 30, 1868, and Exhibit 151 A, being a letter from Commissioner Wilson to the register and receiver at Ionia, dated July 30, 1869.

Exhibit 151 being the decision of the Commissioner rejecting the entries of Addison P. Brewer and others for lands in 18, 19, and 20 north, range 3 west, their entries being contested by the Flint & Pere Marquette and Jackson, Lansing & Saginaw Railroad Companies and Messrs. Remick and Merrill. These lands were selected by the State in 1852 as swamp lands, and in 1857 a resurvey was made of the townships and a new list prepared in 1858. The railroad companies claim the land under the act of Congress of June 3d, 1856. The lands in dispute were within the fifteen-mile limits of the several roads, and the indemnity sections were certified to the road in 1859, 1862, and 1864. Mr. Remick in 1854 and Mr. Merrill in 1863 had applied to enter the lands at the United States land office. The applications of Brewer and others were made at the United States land office in 1866. The Commissioner holds that at the time of the adjustment of the railroad grant and at the time of the application for entry of Messrs. Remick and Merrill the selections of the State in 1852 operated as a withdrawal of 515 the lands from public entry, and not subject to disposal under the terms of the railroad grant. The lands being resurveyed and a new list made, the selections of the State must be considered as having been relinquished, and the lands should now be



restored to market after public notice and the locations canceled. Parties were allowed thirty days in which to appeal to the Secretary of the Interior.

Exhibit 151 A advises the register and receiver of the affirmation of the decision of the Commissioner by the Secretary of the Interior, and directs them to return the scrip, cash, or warrants upon which the entries were made to the proper parties, note the cancellation of the entries on the book of the office, and to offer the lands at public sale in the usual manner.

88. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 152, being a letter from W. R. Wood, chief clerk of the surveyor general's office, dated May 13, 1858, stating the surveyor general left day before with maps, field-notes, etc., of the surveys in Michigan to be transferred to the State authorities, and that he had mailed to the Commissioner's address the original supplemental lists in the Cheboygan, Grand River and Saginaw land districts made up from the resurveys since the date of the supplemental lists for those districts, which latter lists had been transferred to Michigan authorities in May, 1857.

89. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 153, being from the State land office of Michigan, original supplemental list E of swamp lands in Cheboygan district.

90. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 154, being from the State land office of Michigan, approved list No. 11 of swamp lands in the Ionia district.

91. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 155, being a letter from Governor Crapo to Commissioner Edmunds, dated June 20, 1866, acknowledging the receipt of a copy of approved list No. 11, and requesting that patents issue for the same.

92. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 156, being a copy of patent of the United States to the State of Michigan, No. 22, covering lands in towns 28 north, range 4 west, and 24 north, range 9 west, the same lands as are included in approved list No. 11 (Exhibit 154).

93. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 157, being a letter of James W. Sanborn, commissioner of the State land office, to Governor Wisner, dated April 5, 1859, inclosing to the governor a copy of the letter of Commissioner Hendricks to Treadwell, commissioner of the State land office, dated December 18, 1858, and lists of towns inclosed in the latter letter. Also other documents showing the difference in the acreage of swamp lands under the old and the resurveys. In certain towns showing a decrease by the resurvey of over 78,000 acres, and in the lands already patented to the State a difference of 235,000 acres. Other documents are included showing the difficulty in locating the lands described in the patents by

reason of the discrepancies in the two surveys, and submitting  
517 the whole matter to the governor for his advice in the premises.

94. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 159, being a letter from Samuel S. Lacey, commissioner of the State land office, to Commissioner Edmunds, dated July 10, 1861, inclosing statement B, as attached to the report contained in Exhibit 158, asking when the lands appearing to have been unpatented may be patented to the State of Michigan.

95. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 161, being a copy from the records at Washington of the surveyor general's list No. 1, Grand River district, so far as it covers towns. 18 north, range- 3 and 4 west.

96. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 162, being a copy from the General Land Office of Ionia approved list No. 1, so far as it covers towns. 18 north, ranges 3 and 4 west.

97. In holding that no error was committed by the trial court in admitting in evidence over plaintiff's objection, Exhibit 163, being a tax deed from the State of Michigan by the auditor general of the State of Michigan to C. A. Rust, dated July 30th, 1892, issued in pursuance of a sale of the lands in controversy, for the delinquent taxes for the year 1888, at a sale thereof made May 4th, 1891, for the sum of \$350.24.

98. The said circuit court of appeals erred in holding that there was no error committed by the trial court in rejecting and excluding on plaintiff's offer the records and files in the case  
518 of the *United States vs. Henry Nicholson et al.*, in the United States circuit court for the eastern district of Michigan, being Exhibit 175 A. This was an action brought by the United States against Henry Nicholson and his bondsmen, based on the contract of Nicholson with Surveyor General Haines, dated the 20th day of July, 1838, for the survey according to the laws of the United States and the instructions of the surveyor general of towns 18, 19 and 20 north, ranges 1, 2 and 3 west, and the bond given in pursuance of that contract, dated the 20th of July, 1838, alleging as breaches of the condition of the bond that Nicholson as deputy surveyor did not well and truly and faithfully, according to the laws of the United States and the instructions of the surveyor general, make and execute the surveys required under the terms of his contract, and did not return the field-notes of such a survey, and that he did not, with his chainmen and axemen and flag-bearers, lay out and subdivide the towns in the sections as required to do by the contract. The plea was one of performance, and that if there had been a non-performance, full payment and satisfaction had been made by the defendants, and that the bond was released and discharged. On the trial of the case before a jury on the 25th day of November, 1850, there was a verdict in favor of the defendants.

99. The said circuit court of appeals erred in holding that there was no error committed by the trial court in rejecting and excluding the records and files in the case of the *United States vs. Henry Brevoort et al.*, in the United States circuit court for the eastern district of Michigan, being Exhibit 175 B. This action was in the same form as the action against Nicholson, set forth in the preceding assignment, his contract bearing date December 13, 1839, covering towns 24, 25, 26, and 27 north, ranges 1,

519 2, and 6 west, and towns 25, 26, and 27 north, ranges 3, 4, and 5 west, and towns 24, 25 and 26 north, range 7 west. Declaration alleges in substance a non-performance of the contract in accordance with the laws of the United States and the instructions of the surveyor general, and the plea is that the contract was fully performed. On a trial of the cause before a jury on the 23rd day of November, 1850, there was a verdict for the defendants.

100. The said circuit court of appeals erred in holding that there was no error committed by the trial court in rejecting and excluding from evidence on the offer of plaintiff, Exhibit 176, being a letter dated December 13, 1850, from J. M. Howard to Secretary of the Interior Stewart, reciting the institution of suits in the United States court against Deputy Surveyors Nicholson, Brevoort, and others, at the suggestion of Lucius Lyon, the late surveyor general.

Mr. Howard was the counsel employed in the cases for one of the defendants, Mr. Mullett, and gives the history of the trial of the case against Brevoort, and alleges that there was not the slightest proof that the returns of the surveys by Brevoort were fraudulent or fictitious, as had been reported, and states that the Government relied upon the testimony of Wm. A. Burt, the deputy surveyor, who had made an examination, under instructions of Surveyor General Lyon, of the surveys in controversy, in April, 1849, and the following months, and indicates that Mr. Burt received, as his compensation for these surveys, \$2,500 more than he was by law entitled to receive, and from his testimony it appeared that he found many of the old monuments of the old surveys, and that a large portion of the country examined had been run over by fire, which had consumed most of the timber, and the same facts were proved by other witnesses.

520 101. The said circuit court of appeals erred in holding that there was no error committed by the trial court in rejecting and excluding from evidence on offer of plaintiff, Exhibit 177, being a letter from United States District Attorney Bates to Hon. James L. Conger, dated February 10, 1851, referring to the trial against Brevoort and Mullett; states that the cause was tried in the previous December and had been taken to the Supreme Court on bill of exceptions, but the evidence of the trial was conclusive that the surveys had been faithfully fulfilled, and that eventually the defendants would have a verdict.

102. The said circuit court of appeals erred in holding that there was no error committed by the trial court in rejecting and excluding from evidence on the offer of plaintiff, Exhibit 178, being a

letter from United States District Attorney Bates to Commissioner Butterfield, dated February 11, 1851, reciting in substance the facts stated in Exhibit 177, referred to in the preceding assignment.

103. The said circuit court of appeals erred in holding that there was no error committed by the trial court in rejecting and excluding from evidence on the offer of plaintiff, Exhibit 179, and the inclosures contained in it, being a letter from Chas. Noble, surveyor general, to Commissioner Butterfield, dated February 28th, 1851, inclosing two letters of Henry Brevoort, Jr., making charges against the late Surveyor General Lucius Lyon. The first letter is dated February 11, 1851, and charges that Lyon had been given contracts for districts too large for him to execute in person and had let them out to other persons, so that he could not run and mark the lines, as he was required to do by the general instructions governing surveying contracts; that he did not accompany his surveying parties to the districts contracted, but remained at Detroit and Lansing sufficient time, so that he had not given over five or six weeks to the field-work covered by his contracts, and that while the instructions required the surveys to be made by the use of Burt's solar compass, Lyon had only one such instrument for the entire party, and that he had failed to pay numbers of the men who were in his employ. The second letter is dated February 14th, 1851, replying to a letter of the 7th inst. from Noble to Brevoort, requesting him to furnish the proof of his statement, in which Mr. Brevoort says he is ready to produce competent testimony in any court whenever called upon to do so.

104. The said circuit court of appeals erred in holding that there was no error committed by the trial court in rejecting and excluding from evidence over plaintiff's objection Exhibit 180, being a letter from Wilson, Commissioner, to Surveyor General Noble, dated January 15, 1853, stating that the order to determine what action should be had with reference to the surveyor general's office in view of the act of Congress of 1840, relative to the closing of the office, suggests that the chief clerk, Mr. Frost, be sent to Washington to personally give such information and receive such instructions as are desired.

105. The said circuit court of appeals erred in holding that there was no error committed by the trial court in rejecting and excluding from evidence Exhibit 181, being a letter from Surveyor General Noble to Commissioner Wilson, dated February 14, 1853, stating that he has prepared in the limited time allowed him a schedule of the field-notes and office work yet to be completed in his office, and that the bearer, Mr. Frost, had been detailed to present the same, and that he would give such further information as he deemed important for the Commissioner's office. Attached to the letter is the schedule referred to, showing ten townships of resurveys not yet completed and seven townships in the Upper Peninsula unsurveyed and seven townships the surveys of which made in 1851 were suspended, and that a number of towns yet to be platted and the notes transcribed.

106. In holding that there was no error committed by the trial

court in refusing to give plaintiff's request to charge No. 4, which request is as follows:

The act of Congress made it the duty of the Secretary of the Interior to identify the lands granted, and when he tendered to the State of Michigan the election to receive the lands granted, according to the field-notes of the Government survey, as the basis of identification, in accordance with the instructions under date of November 21, 1850, which method of identification was accepted by the legislature of the State by an act passed and approved June 21, 1851, the method so tendered and accepted became a compact between the State of Michigan and the United States and was binding upon both parties.

107. In holding that there was no error committed by the trial court in refusing to give plaintiff's request to charge No. 5, which request is as follows:

The Secretary of the Interior having approved the selections contained and designated by legal subdivisions in a list called the Ionia land district No. 1, over his hand, and bearing date the 27th day of October, A. D. 1853, and made a plat thereof, under and in

accordance with said act of Congress, and forwarded said list  
523 of legal subdivisions and plat to the governor of the State of

Michigan, and suggested that the governor request patents therefor from the United States, and the governor having requested patents to be issued therefor on the 31st day of January, 1854, and the legal subdivisions in issue in this suit being contained in and designated as swamp lands in said list and plat as swamp lands inuring to the State of Michigan under said act of Congress, the title to the legal subdivisions described in the plaintiff's declaration in issue in this suit became fully identified and fully vested in the State of Michigan.

108. In holding that there was no error committed by the trial court in refusing to give plaintiff's request to charge No. 6, which request is as follows:

That after making said list and plat and forwarding them to the governor of the State of Michigan, the work of issuing the patents therefor, as requested by the governor, was merely ministerial, and the Secretary of the Interior could not deprive the State of Michigan of such lands by neglecting or refusing to issue patents therefor.

109. In holding that there was no error committed by the trial court in refusing to give plaintiff's request to charge No. 7, which request is as follows:

The act of Congress approved March 3, 1857, confirmed to the State of Michigan all selections embraced in the approved list No. 1 of the Ionia land district, which were, at the date of said act, vacant and unappropriated and not interfered with by previous settlement under the laws of the United States, and the uncontradicted evidence in this case showing that the lands described in the plaintiff's declaration were embraced in such  
524 selections and contained in the approved list and plat made by the Secretary of the Interior, and were, on the 3rd of March,

1857, vacant, unappropriated, and not interfered with by previous settlement under the laws of the United States, were by that act confirmed to the State of Michigan, such act of confirmation operating as a grant of lands embraced in such approved list and plat.

110. In holding that there was no error committed by the trial court in refusing to give plaintiff's request to charge No. 8, which request is as follows:

If such approved list made and approved by the Secretary of the Interior was, on the 3rd of March, 1857, withheld from patent because of the resurveys having been ordered or made, and if he had any corrective or other authority over such list to alter and act upon it, then the act of March 3, 1857, applied to such list and confirmed the lands designated therein to the State of Michigan, and deprived the Secretary of the Interior of all power in the premises save to cause patents to such lands to be issued to the State of Michigan.

111. In holding that there was no error committed by the trial court in refusing to give plaintiff's request to charge No. 9, which request is as follows:

The testimony in the case fails to show that there had been any such adjustment of the swamp-land grant between the State of Michigan and the United States as in law deprives the State of the title of the land granted to it under the act of Congress of September 28, 1850, and claimed in this suit.

112. In holding that there was no error committed by the trial court in refusing to give plaintiff's request to charge No. 10, which request is as follows:

The testimony in this case fails to show that there has been any estoppel as against the State to forbid its grantee and those claiming title from the State to rely upon the act of Congress granting the lands involved in the issue in this case to the State.

113. In holding that there was no error committed by the trial court in refusing to give plaintiff's request to charge No. 11, which request is as follows:

Upon the whole record and the testimony given you in the open court your verdict should be for the plaintiff.

114. In holding that no error was committed by the district judge in charging the jury as follows:

"I will say to counsel that, as it lies in my mind, there is no substantial distinction between this case and the first except that the lands in question are found in an approved list, which was subsequently revoked and canceled by the Secretary of the Interior, and the question that arises upon the power of the Secretary to order the resurvey or revoke any certification of lands made by him before the actual issue of patents. If he had such power, then, of course, the title of the defendants must prevail in this action, and I have no doubt the Secretary had the power not only to order the resurvey as I have held before."

115. In holding that no error was committed by the district judge in charging the jury as follows:



"But at any time before the issue of patents, if he discovered that there was fraud or mistake, or if he was satisfied upon the evidence before him that the lands were not of the character granted by the act of September 28, 1850, it was his duty, notwithstanding he had certified them to the State by approval of the list, to revoke that certification, cancel it, and the lands remain unaffected; and, of course, if the patents had been issued, it was quite probable that this action would have been conclusive on the rights of the parties, that patent not having been issued, and the Secretary having decided, as it was his province to decide on the facts before him, that the lands were not of the character granted, I think the title of the defendants must prevail."

116. In holding that no error was committed by the district judge in charging the jury as follows:

"With reference to the act of 1857, my impression is very strong. Both from the reading of the act and from what I have seen in the decisions of the Department of the Interior, where the question has arisen once or twice that the act was primarily intended for those selections of land made by the States themselves pursuant to the surveys which they had made, and had no application, at least it wasn't originally intended for and does not apply to those lands designated as swamp lands, under the surveys of the United States, and it certainly has no application to those lands the lists of which were set aside and canceled, and of which a resurvey was ordered by the Secretary of the Interior, and the act of 1857 could not, in my judgment, even if it intended to apply to all the States alike, it could not revive selections which had been so far canceled by the Secretary of the Interior in the line of his duty as to order a resurvey of those lands."

117. In holding that no error was committed by the district judge in directing a verdict for the defendant as requested by defendant's counsel.

118. The circuit court of appeals erred in holding that the act of Congress of March 3, 1857, did not apply to the list known as approved list No. 1, Ionia, and did not confirm the selections contained in said list to the State of Michigan. (Opinion, p. 17.)

119. The circuit court of appeals erred in holding that the Secretary of the Interior had no authority to enter into the arrangement with the State of Michigan to adopt the field-notes of the United States survey on file in the surveyor general's office, if by so doing lands the greater part of any Government description thereof which were not swamp would be included in such selections. (Opinion, p. 13.)

120. The circuit court of appeals erred in holding that the Secretary of the Interior could not assume any obligation by agreement with the State which would bind him in the discharge of his duty to the General Government. (Opinion, p. 13.)

121. The circuit court of appeals erred in holding that by the act in question the proceedings of his department extended from the first step to be taken for the identification of the lands to the issue-

ance of the patent to the State, whereupon they became subject to the disposal of the legislature thereof, and that when the patent was required by the act it would seem that Congress intended the Secretary's supervision to continue until all things contemplated by the act had been accomplished by its issuance. (Opinion, p. 13.)

122. The circuit court of appeals erred in holding "that it was not the intention of this act" (the act of March 3, 1857) "to  
528 override the general power of the Secretary of the Interior to correct frauds and mistakes in the preparation of the lists thereby confirmed, and that upon the just construction of the act such frauds and mistakes remain subject to correction." (Opinion, p. 17.)

123. The circuit court of appeals erred in holding that the act of March 3, 1857, was not intended to include a list which was in the situation of the one under which the plaintiff claims. (Opinion, p. 17.)

124. The circuit court of appeals erred in holding that it was not intended by the Secretary of the Interior nor expected by the State that the selection of swamp lands certified and transmitted to the governor on the 13th day of January, 1854, and which included the lands claimed by the plaintiff, should be necessarily final, but that it was intended to be subject to correction to the extent that the facts shown by the resurveys should require, and that upon its being proven by the resurveys that these lands were not swamp, it was competent to supersede the selection by a correct one. (Opinion, p. 12.)

125. The circuit court of appeals erred in holding that in this case the selections had been made and approved under a mistake of facts induced by false and fraudulent surveys, whereby lands had been certified which were not swamp and to which the State had no right whatever, and the rights of no third party had intervened, it was competent for the Secretary on discovering the error at any time before issuing the patent to correct the wrong by recalling his certification: "not upon mere error of judgment, but that character of mistake which affords a ground of relief in a court of equity."

529 (Opinion, pp. 12 & 13.)

126. The circuit court of appeals erred in holding, "the Secretary under this grant would exercise his powers consistently with his general authority over the public lands. He had plenary and exclusive power to direct the surveys, to cancel such as he found erroneous, and to order resurveys as the necessities of every occasion should require." (Opinion, p. 13.)

127. The circuit court of appeals erred in holding that the Secretary of the Interior "had the power and was charged with the duty of supervising the method by which granted lands should be passed to the beneficiary. If mistakes were committed by his subordinates, the results of which, if suffered to stand, would be to accomplish a wrong, he had power to correct them. If they were made by him-



self his duty was as plain and his power no less ample." (Opinion, p. 13.)

128. The said circuit court of appeals was in error in holding that the grant under the act of September 28, 1850, had been adjusted between the State of Michigan and the United States, and that the State had received substantially all the lands to which it was entitled. (Opinion, pp. 9-12.)

129. The circuit court of appeals erred in holding that, "in effect, the plaintiff's contention amounts to this: that no matter how gross the error or from what cause proceeding, the Secretary of the Interior, when once he had certified a list of lands as falling due to the State under the grant, was without power to rectify it though no patent had been issued and the rights of no third party had become involved by purchase from the State, and further that the Secretary had no power to do this with the consent of the State." (Opinion, p. 10.)

130. The circuit court of appeals erred in stating (after setting out the letter of the Commissioner of the General Land Office of date January 13, 1854, to the governor of Michigan), "In the margin of the descriptions contained in town 18 north, of range 3 west, was written the letter 'F,' which was explained in the accompanying certificate to mean that the survey of that township had been reported as fraudulent." (Opinion, p. 5.)

No such letter "F" was entered in the margin or any other place upon the approved list No. 1 transmitted to the governor.

131. There is also error in this, to wit, that by the record aforesaid it appears that the judgment aforesaid in form aforesaid was given for the said defendant, Charles A. Rust, survivor, etc., and against the said Michigan Land and Lumber Company, Limited, whereas by the law of the land the said judgment ought to have been given for the said Michigan Land and Lumber Company, Limited, and against said Charles A. Rust, survivor, etc.

And the said Michigan Land and Lumber Company, Limited, prays that the judgment aforesaid for the errors aforesaid and other errors in the record and proceedings aforesaid may be reversed, annulled, and altogether held for nothing, and that it may be restored to all things that it has lost by occasion of said judgment, etc.

JOHN W. CHAMPLIN AND

FRANK E. ROBSON,

*Attorneys for Plaintiff in Error.*

531 And afterwards, to wit, on the 24th day of August, 1895, the following petition for writ of error was filed, which reads and is in the words and figures following, to wit:

532 UNITED STATES OF AMERICA, ss:

The Michigan Land & Lumber Company, Limited, conceiving itself aggrieved by the judgment rendered on the seventh day of May, 1895, by the United States circuit court of appeals for the sixth circuit in a cause therein pending, wherein The Michigan Land &

Lumber Company, Limited, was plaintiff and Charles A. Rust, survivor in an action of ejectment against Amasa Rust and Charles A. Rust, was defendant, and said cause not being a case made final by section six of an act of Congress entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," and the matter in controversy exceeding one thousand dollars, besides costs, and having filed with the clerk of the said court assignments of error, doth hereby pray that a writ of error to the said United States circuit court of appeals for the sixth circuit may be allowed, and that a transcript of the record and proceedings and papers upon which said judgment was rendered, duly authenticated, may be sent to the Supreme Court of the United States, at Washington.

Dated the third day of August, 1895.

JOHN W. CHAMPLIN AND  
FRANK E. ROBSON,  
*Attorneys for Plaintiff and Appellant.*

Ordered that a writ of error, as above prayed for, be, and the same is hereby, allowed.

GEORGE SHIRAS,  
*Associate Justice of the Supreme Court  
of the United States.*

Dated August 3d, 1895.

533 [Endorsed:] 178. United States circuit court of appeals for the sixth circuit. Michigan Land and Lumber Company, L't'd, plaintiff & appellant, *vs.* Charles A. Rust, survivor, &c., defendant. Petition for writ of error. Filed Aug. 24, 1895. Frank O. Loveland, clerk. J. W. Champlin, Frank E. Robson, attorneys for plaintiff and appellant.

534 And afterwards, on the same day, the following bond was filed in said court, which reads and is in the words and figures following, to wit:

United States Circuit Court of Appeals for the Sixth Circuit.

MICHIGAN LAND & LUMBER Co. *et al.* )

*vs.*

CHARLES A. RUST, Survivor, etc. }

Know all men by these presents that we, the Michigan Land and Lumber Company, Limited, of Lansing, Michigan, as principal, and Samuel L. Smith, of Detroit, Michigan, and Edward W. Sparrow, of Lansing, Michigan, as sureties, are held and firmly bound unto Charles A. Rust, of Saginaw, Michigan, in the full and just sum of one thousand dollars (\$1,000.00), to be paid to the said Charles A. Rust, his certain attorneys, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our

heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 28th day of June, in the year of our Lord one thousand eight hundred and ninety-five.

Whereas lately, at a session of the United States circuit court of appeals for the sixth circuit, in a suit depending in said court between said Michigan Land and Lumber Company, Limited, as plaintiff in error, and said Charles A. Rust, survivor, etc., as defendant in error, said cause coming into said court on a writ of error sued out by said plaintiff in error to the circuit court of the United States for the sixth circuit and eastern district of Michigan, a judgment was rendered against the said Michigan Land and

535 Lumber Company, Limited, and in favor of Charles A. Rust, survivor, etc., affirming the judgment in the said circuit court for the eastern district of Michigan, and the said Michigan Land and Lumber Company, Limited, being about to prosecute a writ of error to said United States circuit court of appeals to reverse the judgment of said court in the aforesaid suit and to cause a citation directed to the said Charles A. Rust, survivor, etc., to the United States Supreme Court, to be holden at the city of Washington, in accordance with the rules and practice in that behalf:

Now, the condition of the above obligation is such that if the said Michigan Land and Lumber Company, Limited, shall prosecute said writ of error to effect and answer all damages and costs if it fail to make its plea good, then the above obligation to be void; else to remain in full force and virtue.

MICHIGAN LAND & LUMBER CO.,  
LIMITED,

By E. W. SPARROW, *Secretary.*

SAMUEL L. SMITH.

EDWARD W. SPARROW.

[SEAL.]

[SEAL.]

[SEAL.]

Sealed and delivered in the presence of—

FRANK E. ROBSON,

GEORGE H. CARLISLE,

*As to Samuel L. Smith.*

F. E. CHURCH,

E. A. CHAFIN,

*As to Michigan Land & Lumber Co.*

*and Edw. W. Sparrow.*

Approved by—

GEORGE SHIRAS, JR.,

*Justice of the Supreme Court of the United States.*

STATE OF MICHIGAN, }  
County of Wayne, Eastern Dist. of Michigan, } ss:

Samuel L. Smith, being duly sworn, says that he is a resident of said county and district and is the same person who signed the within obligation as surety; that he is worth the same specified in

the foregoing bond over and above all his debts and liabilities and exclusive of property exempt by law from execution.

SAMUEL L. SMITH.

Sworn to and subscribed before me this 28th day of June, A. D. 1895.

GEORGE H. CARLISLE,

*Notary Public, Wayne County, Michigan.*

536

STATE OF MICHIGAN,  
County of Ingham, Eastern District of Michigan, } ss :

Edward W. Sparrow, being duly sworn, says that he is a resident of said county and district and is the same person who signed the within obligation as surety; that he is worth the sum specified in the foregoing bond over and above all his debts and liabilities and exclusive of property exempt by law from execution.

EDWARD W. SPARROW.

Sworn to and subscribed before me this 1st day of July, A. D. 1895.

F. E. CHURCH,

*Notary Public, Ingham County, Michigan.*

537 United States Circuit Court of Appeals for the Sixth Circuit.

I, Frank O. Loveland, clerk of the United States circuit court of appeals for the sixth circuit, do hereby certify that the foregoing is a true and correct copy of the record in the case of The Michigan Land & Lumber Company vs. Charles A. Rust, survivor, etc., No. 178, October term, 1893, as the same remains upon the files and records of said United States circuit court of appeals for the sixth circuit, and of the whole thereof.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States circuit court of appeals for the sixth circuit, at the city of Cincinnati, Ohio, this 26th day of August, 1895.

FRANK O. LOVELAND,

*Clerk of the United States Circuit Court of Appeals for the Sixth Circuit.*

538 STATE OF MICHIGAN, } ss :  
County of Saginaw,

Frank M. Totten, of Saginaw, in said county, being duly sworn, deposes and says that at said Saginaw, on the 20th day of August, A. D. 1895, he served a true copy of the citation hereto annexed upon Hanchett, Stark and Hanchett, attorneys for Charles A. Rust, named in said citation, by then and there delivering said copy to Leslie B. Hanchett, one of said firm of Hanchett, Stark and Hanchett. Further deponent says not.

FRANK M. TOTTEEN.

Subscribed and sworn to before me this 20th day of August,  
A. D. 1895.

( Seal of Herman A. Wolpert, Notary )  
( Public, Saginaw County, Mich. )

H. A. WOLPERT,  
*Notary Public in and for Saginaw County, Michigan.*

539 STATE OF MICHIGAN, }  
County of Saginaw, } ss :

Frank M. Totten, of Saginaw, in said county, being first duly sworn, deposes and says that at said Saginaw, on the 20th day of August, A. D. 1895, he served a true copy of the writ of error issued from the Supreme Court of the United States in the cause wherein The Michigan Land & Lumber Company, Limited, is plaintiff in error and Charles A. Rust defendant in error upon Messrs. Hanchett, Stark & Hanchett, attorneys for said defendant in error, by then and there delivering said copy to Leslie B. Hanchett, one of the said firm of Hanchett, Stark & Hanchett.

Further deponent says not.

FRANK M. TOTTEN.

Subscribed and sworn to before me this 22nd day of August,  
A. D. 1895.

( Seal of Herman A. Wolpert, Notary )  
( Public, Saginaw County, Mich. )

H. A. WOLPERT,  
*Notary Public in and for Saginaw County.*

540 UNITED STATES OF AMERICA :

To Charles A. Rust, Greeting :

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the United States circuit court of appeals for the sixth circuit, wherein The Michigan Land & Lumber Company, Limited, is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable George Shiras, Jr., associate justice of the Supreme Court of the United States, this thirteenth day of August, in the year of our Lord one thousand eight hundred and ninety-five.

GEORGE SHIRAS, JR.,  
*Associate Justice of the Supreme Court of the United States.*

541 [Endorsed:] 178. United States circuit court of appeals for the sixth circuit. Michigan Land and Lumber Company, L'td, plaintiff & appellant, vs. Charles A. Rust, survivor, &c., defendant. Monition. Filed Aug. 24, 1895. Frank O. Loveland, clerk. J. W. Champlin, Frank E. Robson, attorneys for plaintiff and appellant.

542 UNITED STATES OF AMERICA, ss :

The President of the United States to the honorable the judges of the United States circuit court of appeals for the sixth circuit, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said United States circuit court of appeals, before you or some of you, between The Michigan Land and Lumber Company, Limited, plaintiff in error, and Charles A. Rust, survivor, &c., defendant in error, a manifest error hath happened, to the great damage of the said plaintiff in error, as by its complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court, at Washington, within 30 days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 13th day of August, in the year of our Lord one thousand eight hundred and ninety-five.

JAMES H. McKENNEY,  
*Clerk of the Supreme Court of the United States.*

Allowed by—

\_\_\_\_\_  
*Associate Justice of the Supreme Court of the United States.*

Endorsed on cover: Case No. 16,010. U. S. circuit court of appeals, sixth circuit. Term No., 331. The Michigan Land and Lumber Company, Limited, plaintiff in error, vs. Charles A. Rust, survivor, &c. Filed August 28, 1895.